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1946-47

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INTERNATIONAL LAW
DOCUMENTS

1946-1947



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PREFACE

The publication of this series of volumes, under varying titles, was instituted by the Naval War College in 1894. This is the forty-fifth volume in the series as numbered for index purposes (the numbering does not cover the volumes for 1894, 1895, 1896, 1897, 1899 and 1900, the additional volume published in 1904, or the four index volumes for 1901-1910, 1901-1920, 1904-1930 and 1931-1940). The immediately preceding volume, "International Law Documents 1944-1945," was published in 1946. The volume for 1895 was a pioneer in the case method of solving International Law questions.

As in previous years, this volume has been prepared in collaboration with the Associate for International Law of the Naval War College, now Judge Manley O. Hudson, Bemis Professor of International Law in the Harvard Law School.

The transition from war to peace which is now under way has already been the occasion for numerous readjustments affecting International Law. Nowhere is this more evident than in the field of international legislation, where the significance of the current movement has been enhanced by the more active participation of the United States in international organization. Naturally, the Naval War College is alive to such developments, and the documents included in this volume, many of which supplied the background for its discussions in 1947, reveal the range of some of the extensions recently effected.

Perhaps a prophetic utterance by W. E. Hall in 1889 (in the preface to the third edition of his *Treatise on International Law*) may serve as a harbinger of the period through which the world is now passing. "It is a matter of experience," said Hall, "that times, in which International Law has been seriously disregarded, have been followed by periods in which the European conscience has done penance by putting itself under straiter obligations than those which it before acknowledged. There is no reason to suppose that things will be otherwise in the future. I therefore look forward with much misgiving to the manner in which the next great war will be waged, but with no misgiving at all as to the character of the rules which will be acknowledged ten years after its termination, by comparison with the rules now considered to exist."

RAYMOND A. SPRUANCE,
Admiral, United States Navy,
President, Naval War College.

NEWPORT, 1 November 1947.

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I. THE TREATIES OF PEACE OF 1947

NOTE. In 1945 and 1946, the Council of Foreign Ministers, established by the Berlin Conference in July 1945 (Naval War College, International Law Documents 1944-45, p. 208), gave protracted consideration to the drafting of treaties of peace with European States. A conference of representatives of twenty-one States was held at Paris, 29 July-15 October 1946, and its proposals were reviewed by the Council of Foreign Ministers at its meeting in New York, 4 November-12 December 1946. Five Treaties of Peace were signed at Paris on 10 February 1947. Ratifications of the Treaty with Italy were deposited at Paris, and ratifications of the other Treaties were deposited at Moscow, on 15 September 1947.

(1) Treaty of Peace Between the Allied and Associated Powers and Italy, Paris, 10 February 1947.*

(Department of State Publication 2743)

The Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, China, France, Australia, Belgium, the Byelorussian Soviet Socialist Republic, Brazil, Canada, Czechoslovakia, Ethiopia, Greece, India, the Netherlands, New Zealand, Poland, the Ukrainian Soviet Socialist Republic, the Union of South Africa, and the People's Federal Republic of Yugoslavia, hereinafter referred to as "the Allied and Associated Powers", of the one part, and

Italy, of the other part:

Whereas Italy under the Fascist regime became a party to the Tripartite Pact with Germany and Japan, undertook a war of aggression and thereby provoked a state of war with all the Allied and Associated Powers and with other United Nations, and bears her share of responsibility for the war; and

Whereas in consequence of the victories of the Allied forces, and with the assistance of the demo-

*The text consists of versions in the French, English, Russian and Italian languages, of which the first three were declared to be "authentic."

cratic elements of the Italian people, the Fascist regime in Italy was overthrown on July 25, 1943, and Italy, having surrendered unconditionally, signed terms of Armistice on September 3 and 29 of the same year; and

Whereas after the said Armistice Italian armed forces, both of the Government and of the Resistance Movement, took an active part in the war against Germany, and Italy declared war on Germany as from October 13, 1943, and thereby became a co-belligerent against Germany; and

Whereas the Allied and Associated Powers and Italy are desirous of concluding a treaty of peace which, in conformity with the principles of justice, will settle questions still outstanding as a result of the events hereinbefore recited and will form the basis of friendly relations between them, thereby enabling the Allied and Associated Powers to support Italy's application to become a member of the United Nations and also to adhere to any convention concluded under the auspices of the United Nations;

Have therefore agreed to declare the cessation of the state of war and for this purpose to conclude the present Treaty of Peace, and have accordingly appointed the undersigned Plenipotentiaries who, after presentation of their full powers, found in good and due form, have agreed on the following provisions:

PART I. TERRITORIAL CLAUSES

SECTION I—FRONTIERS

ARTICLE 1.—The frontiers of Italy shall, subject to the modifications set out in Articles 2, 3, 4, 11 and 22, be those which existed on January 1, 1938. These frontiers are traced on the maps attached to the present Treaty (Annex I). In case of a discrepancy between the textual description of the

frontiers and the maps, the text shall be deemed to be authentic.

ARTICLE 2.—The frontier between Italy and France, as it existed on January 1, 1938, shall be modified as follows:

1. *Little St. Bernard Pass*

The frontier shall follow the watershed, leaving the present frontier at a point about 2 kilometers northwest of the Hospice, crossing the road about 1 kilometer northeast of the Hospice and rejoining the present frontier about 2 kilometers southeast of the Hospice.

2. *Mont Cenis Plateau*

The frontier shall leave the present frontier about 3 kilometers northwest of the summit of Rochemelon, cross the road about 4 kilometers southeast of the Hospice and rejoin the present frontier about 4 kilometers northeast of Mont d'Ambin.

3. *Mont Thabor-Chaberton*

(a) In the Mont Thabor area, the frontier shall leave the present frontier about 5 kilometers to the east of Mont Thabor and run southeastward to rejoin the present frontier about 3 kilometers west of the Pointe de Charra.

(b) In the Chaberton area, the frontier shall leave the present frontier about 3 kilometers north-northwest of Chaberton, which it skirts on the east, and shall cross the road about 1 kilometer from the present frontier, which it rejoins about 2 kilometers southeast of the village of Montgenevre.

4. *Upper Valleys of the Tinée, Vesubie and Roya*

The frontier shall leave the present frontier at Colla Longa, shall follow along the watershed by way of Mont Clapier, Col de Tenda, Mont Marguareis, whence it shall run southward by way of Mont Sac-

carello, Mont Vacchi, Mont Pietravecchia, Mont Lega and shall reach a point approximately 100 meters from the present frontier near Colla Pegairolle, about 5 kilometers to the northeast of Breil; it then shall run in a southwesterly direction, and shall rejoin the existing frontier approximately 100 meters southwest of Mont Mergo.

5. The detailed description of those sections of the frontier to which the modifications set out in paragraphs 1, 2, 3 and 4 above apply, is contained in Annex II to the present Treaty and the maps to which this description refers form part of Annex I.

ARTICLE 3.—The frontier between Italy and Yugoslavia shall be fixed as follows:

(i) The new frontier follows a line starting from the junction of the frontiers of Austria, Italy and Yugoslavia as they existed on January 1, 1938, and proceeding southward along the 1938 frontier between Yugoslavia and Italy to the junction of that frontier with the administrative boundary between the Italian provinces of Friuli (Udine) and Gorizia;

(ii) From this point the line coincides with the said administrative boundary up to a point approximately 0.5 kilometer north of the village of Mernico in the valley of the Iudrio;

(iii) Leaving the administrative boundary between the Italian provinces of Friuli and Gorizia at this point, the line extends eastward to a point approximately 0.5 kilometer west of the village of Vercoglia di Cosbana and thence southward between the valleys of the Quarnizzo and the Cosbana to a point approximately 1 kilometer southwest of the village of Fleana, bending so as to cut the river Recca at a point approximately 1.5 kilometers east of the Iudrio and leaving on the east the road from Cosbana via Nebola to Castel Dobra;

(iv) The line then continues to the southeast pass-

ing due south of the road between points 111 and 172, then south of the road from Vipulzano to Uclanzi passing points 57 and 122, then crossing the latter road about 100 meters east of point 122 and curving north in the direction of a point situated 350 meters southeast of point 266;

(v) Passing about 0.5 kilometer north of the village of San Floriano, the line extends eastward to Monte Sabotino (point 610), leaving to the north the village of Poggio San Valentino;

(vi) From Monte Sabotino the line extends southward, crosses the Isonzo (Soca) river at the town of Salcano, which it leaves in Yugoslavia, and runs immediately to the west of the railway line from Canale d'Isonzo to Montespino to a point about 750 meters south of the Gorizia-Aisovizza road;

(vii) Departing from the railway, the line then bends southwest leaving in Yugoslavia the town of San Pietro and in Italy the Hospice and the road bordering it and, some 700 meters from the station of Gorizia S. Marco, crosses the railway connection between the above railway and the Sagrado-Cormons railway, skirts the Gorizia cemetery, which is left in Italy, passes between Highway No. 55 from Gorizia to Trieste, which highway is left in Italy, and the crossroads at point 54, leaving in Yugoslavia the towns of Vertoiba and Merna, and reaches a point located approximately at point 49;

(viii) Thence the line continues in a southerly direction across the Karst plateau, approximately 1 kilometer east of Highway No. 55, leaving on the east the village of Opacchiasella and on the west the village of Iamiano;

(ix) From a point approximately 1 kilometer east of Iamiano, the line follows the administrative boundary between the provinces of Gorizia and Trieste as far as a point approximately 2 kilometers northeast

of the village of San Giovanni and approximately 0.5 kilometer northwest of point 208, forming the junction of the frontiers of Yugoslavia, Italy and the Free Territory of Trieste.

The map to which this description refers forms part of Annex I.

ARTICLE 4.—The frontier between Italy and the Free Territory of Trieste shall be fixed as follows:

(i) The line starts from a point on the administrative boundary between the provinces of Gorizia and Trieste approximately 2 kilometers northeast of the village of San Giovanni and approximately 0.5 kilometer northwest of point 208, forming the junction of the frontiers of Yugoslavia, Italy and the Free Territory of Trieste, and runs southwestward to a point adjacent to Highway No. 14 and approximately 1 kilometer northwest of the junction between Highways Nos. 55 and 14, respectively running from Gorizia and Monfalcone to Trieste;

(ii) The line then extends in a southerly direction to a point, in the Gulf of Panzano, equidistant from Punta Sdobba at the mouth of the Isonzo (Soca) river and Castello Vecchio at Duino, about 3.3 kilometers south from the point where it departs from the coastline approximately 2 kilometers northwest of the town of Duino;

(iii) The line then reaches the high seas by following a line placed equidistant from the coastlines of Italy and the Free Territory of Trieste.

The map to which this description refers forms part of Annex I.

ARTICLE 5.—1. The exact line of the new frontiers laid down in Articles 2, 3, 4 and 22 of the present Treaty shall be determined on the spot by Boundary Commissions composed of the representatives of the two Governments concerned.

2. The Commissions shall begin their work im-

mediately on the coming into force of the present Treaty, and shall complete it as soon as possible and in any case within a period of six months.

3. Any questions which the Commissions are unable to agree upon will be referred to the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France, acting as provided in Article 86, for final settlement by such methods as they may determine, including, where necessary, the appointment of an impartial third Commissioner.

4. The expenses of the Boundary Commissions will be borne in equal parts by the two Governments concerned.

5. For the purpose of determining on the spot the exact frontier laid down in Articles 3, 4 and 22, the Commissioners shall be allowed to depart by 0.5 kilometer from the line laid down in the present Treaty in order to adjust the frontier to local geographical and economic conditions, provided that no village or town of more than 500 inhabitants, no important railroads or highways, and no major power or water supplies are placed under a sovereignty other than that resulting from the delimitations laid down in the present Treaty.

SECTION II—FRANCE

(Special Clauses)

ARTICLE 6.—Italy hereby cedes to France in full sovereignty the former Italian territory situated on the French side of the Franco-Italian frontier defined in Article 2.

ARTICLE 7.—The Italian Government shall hand over to the French Government all archives, historical and administrative, prior to 1860, which concern the territory ceded to France under the

Treaty of March 24, 1860, and the Convention of August 23, 1860.

ARTICLE 8.—1. The Italian Government shall co-operate with the French Government for the possible establishment of a railway connection between Briançon and Modane, via Bardonnèche.

2. The Italian Government shall authorize, free of customs duty and inspection, passport and other such formalities, the passenger and freight railway traffic traveling on the connection thus established, through Italian territory, from one point to another in France, in both directions; and shall take all necessary measures to ensure that the French trains using the said connection are allowed, under the same conditions, to pass duty free and without unjustifiable delay.

3. The necessary arrangements shall be concluded in due course between the two Governments.

ARTICLE 9.—1. *Plateau of Mont Cenis.* In order to secure to Italy the same facilities as Italy enjoyed in respect of hydro-electric power and water supply from the Lake of Mont Cenis before cession of this district to France, the latter shall give Italy under a bilateral agreement the technical guarantees set out in Annex III.

2. *The Tenda-Briga District*

In order that Italy shall not suffer any diminution in the supplies of electric power which Italy has drawn from sources existing in the Tenda-Briga district before its cession to France, the latter shall give Italy under a bilateral agreement the technical guarantees set out in Annex III.

SECTION III—AUSTRIA (Special Clauses)

ARTICLE 10.—1. Italy shall enter into or confirm arrangements with Austria to guarantee free movement of passenger and freight traffic between the North and East Tyrol.

2. The Allied and Associated Powers have taken note of the provisions (the text of which is contained in Annex IV) agreed upon by the Austrian and Italian Governments on September 5, 1946.

SECTION IV—PEOPLE'S FEDERAL REPUBLIC OF YUGOSLAVIA

(Special Clauses)

ARTICLE 11.—1. Italy hereby cedes to Yugoslavia in full sovereignty the territory situated between the new frontiers of Yugoslavia as defined in Articles 3 and 22 and the Italo-Yugoslav frontier as it existed on January 1, 1938, as well as the commune of Zara and all islands and adjacent islets lying within the following areas:

(a) The area bounded:

On the north by the parallel of $42^{\circ} 50' N.$;

On the south by the parallel of $42^{\circ} 42' N.$;

On the east by the meridian of $17^{\circ} 10' E.$;

On the west by the meridian of $16^{\circ} 25' E.$;

(b) The area bounded:

On the north by a line passing through the Porto del Quieto, equidistant from the coastline of the Free Territory of Trieste and Yugoslavia, and thence to the point $45^{\circ} 15' N., 13^{\circ} 24' E.$;

On the south by the parallel $44^{\circ} 23' N.$;

On the west by a line connecting the following points:

- (1) 45° 15' N.—13° 24' E.;
- (2) 44° 51' N.—13° 37' E.;
- (3) 44° 23' N.—14° 18' 30'' E.

On the east by the west coast of Istria, the islands and the mainland of Yugoslavia.

A chart of these areas is contained in Annex I.

2. Italy hereby cedes to Yugoslavia in full sovereignty the island of Pelagosa and the adjacent islets.

The island of Pelagosa shall remain demilitarised.

Italian fishermen shall enjoy the same rights in Pelagosa and the surrounding waters as were there enjoyed by Yugoslav fishermen prior to April 6, 1941.

ARTICLE 12.—1. Italy shall restore to Yugoslavia all objects of artistic, historical, scientific, educational or religious character (including all deeds, manuscripts, documents and bibliographical material) as well as administrative archives (files, registers, plans and documents of any kind) which, as the result of the Italian occupation, were removed between November 4, 1918, and March 2, 1924, from the territories ceded to Yugoslavia under the treaties signed in Rapallo on November 12, 1920, and in Rome on January 27, 1924. Italy shall also restore all objects belonging to those territories and falling into the above categories, removed by the Italian Armistice Mission which operated in Vienna after the first World War.

2. Italy shall deliver to Yugoslavia all objects having juridically the character of public property and coming within the categories in paragraph 1 of the present Article, removed since November 4, 1918, from the territory which under the present Treaty is ceded to Yugoslavia, and those connected with the said territory which Italy received from Austria or Hungary under the Peace Treaties signed in St. Germain on September 10, 1919, and in the Trianon

on June 4, 1920, and under the convention between Austria and Italy, signed in Vienna on May 4, 1920.

3. If, in particular cases, Italy is unable to restore or hand over to Yugoslavia the objects coming under paragraphs 1 and 2 of this Article, Italy shall hand over to Yugoslavia objects of the same kind as, and of approximately equivalent value to, the objects removed, in so far as such objects are obtainable in Italy.

ARTICLE 13.—The water supply for Gorizia and its vicinity shall be regulated in accordance with the provisions of Annex V.

SECTION V—GREECE (Special Clause)

ARTICLE 14.—1. Italy hereby cedes to Greece in full sovereignty the Dodecanese Islands indicated hereafter, namely Stampalia (Astropalia), Rhodes (Rhodos), Calki (Kharki), Scarpanto, Casos (Casso), Piscopis (Tilos), Misiros (Nisyros), Calimnos (Kalymnos), Leros, Patmos, Lipsos (Lipso), Simi (Symi), Cos (Kos) and Castellorizo, as well as the adjacent islets.

2. These islands shall be and shall remain demilitarised.

3. The procedure and the technical conditions governing the transfer of these islands to Greece will be determined by agreement between the Governments of the United Kingdom and Greece and arrangements shall be made for the withdrawal of foreign troops not later than 90 days from the coming into force of the present Treaty.

PART II. POLITICAL CLAUSES

SECTION I—GENERAL CLAUSES

ARTICLE 15.—Italy shall take all measures necessary to secure to all persons under Italian jurisdiction, without distinction as to race, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of expression, of press and publication, of religious worship, of political opinion and of public meeting.

ARTICLE 16.—Italy shall not prosecute or molest Italian nationals, including members of the armed forces, solely on the ground that during the period from June 10, 1940, to the coming into force of the present Treaty, they expressed sympathy with or took action in support of the cause of the Allied and Associated Powers.

ARTICLE 17.—Italy, which, in accordance with Article 30 of the Armistice Agreement, has taken measures to dissolve the Fascist organizations in Italy, shall not permit the resurgence on Italian territory of such organizations, whether political, military or semi-military, whose purpose it is to deprive the people of their democratic rights.

ARTICLE 18.—Italy undertakes to recognize the full force of the Treaties of Peace with Roumania, Bulgaria, Hungary and Finland and other agreements or arrangements which have been or will be reached by the Allied and Associated Powers in respect of Austria, Germany and Japan for the restoration of peace.

SECTION II—NATIONALITY, CIVIL AND POLITICAL RIGHTS

ARTICLE 19.—1. Italian citizens who were domiciled on June 10, 1940, in territory transferred by

Italy to another State under the present Treaty, and their children born after that date, shall, except as provided in the following paragraph, become citizens with full civil and political rights of the State to which the territory is transferred, in accordance with legislation to that effect to be introduced by that State within three months from the coming into force of the present Treaty. Upon becoming citizens of the State concerned they shall lose their Italian citizenship.

2. The Government of the State to which the territory is transferred shall, by appropriate legislation within three months from the coming into force of the present Treaty, provide that all persons referred to in paragraph 1 over the age of eighteen years (or married persons whether under or over that age) whose customary language is Italian, shall be entitled to opt for Italian citizenship within a period of one year from the coming into force of the present Treaty. Any person so opting shall retain Italian citizenship and shall not be considered to have acquired the citizenship of the State to which the territory is transferred. The option of the husband shall not constitute an option on the part of the wife. Option on the part of the father, or, if the father is not alive, on the part of the mother, shall, however, automatically include all unmarried children under the age of eighteen years.

3. The State to which the territory is transferred may require those who take advantage of the option to move to Italy within a year from the date when the option was exercised.

4. The State to which the territory is transferred shall, in accordance with its fundamental laws, secure to all persons within the territory, without distinction as to race, sex, language or religion, the enjoyment of human rights and of the fundamental

freedoms, including freedom of expression, of press and publication, of religious worship, of political opinion and of public meeting.

ARTICLE 20. 1. Within a period of one year from the coming into force of the present Treaty, Italian citizens over 18 years of age (or married persons whether under or over that age), whose customary language is one of the Yugoslav languages (Serb, Croat or Slovene), and who are domiciled on Italian territory may, upon filing a request with a Yugoslav diplomatic or consular representative in Italy, acquire Yugoslav nationality if the Yugoslav authorities accept their request.

2. In such cases, the Yugoslav Government will communicate to the Italian Government through the diplomatic channel lists of the persons who have thus acquired Yugoslav nationality. The persons mentioned in such lists will lose their Italian nationality on the date of such official communication.

3. The Italian Government may require such persons to transfer their residence to Yugoslavia within a period of one year from the date of such official communication.

4. For the purposes of this Article, the rules relating to the effect of options on wives and on children, set forth in Article 19, paragraph 2, shall apply.

5. The provisions of Annex XIV, paragraph 10 of the present Treaty, applying to the transfer of properties belonging to persons who opt for Italian nationality, shall equally apply to the transfer of properties belonging to persons who opt for Yugoslav nationality under this Article.

SECTION III—FREE TERRITORY OF TRIESTE

ARTICLE 21.—1. There is hereby constituted the Free Territory of Trieste, consisting of the area lying between the Adriatic Sea and the boundaries defined

in Articles 4 and 22 of the present Treaty. The Free Territory of Trieste is recognized by the Allied and Associated Powers and by Italy, which agree that its integrity and independence shall be assured by the Security Council of the United Nations.

2. Italian sovereignty over the area constituting the Free Territory of Trieste, as above defined, shall be determined upon the coming into force of the present Treaty.

3. On the termination of Italian sovereignty, the Free Territory of Trieste shall be governed in accordance with an instrument for a provisional regime drafted by the Council of Foreign Ministers and approved by the Security Council. This Instrument shall remain in force until such date as the Security Council shall fix for the coming into force of the Permanent Statute which shall have been approved by it. The Free Territory shall thenceforth be governed by the provisions of such Permanent Statute. The texts of the Permanent Statute and of the Instrument for the Provisional Regime are contained in Annexes VI and VII.

4. The Free Territory of Trieste shall not be considered as ceded territory within the meaning of Article 19 and Annex XIV of the present Treaty.

5. Italy and Yugoslavia undertake to give to the Free Territory of Trieste the guarantees set out in Annex IX.

ARTICLE 22. The frontier between Yugoslavia and the Free Territory of Trieste shall be fixed as follows:

(i) The line starts from a point on the administrative boundary between the provinces of Gorizia and Trieste, approximately 2 kilometers northeast of the village of San Giovanni and approximately 0.5 kilometer northwest of point 208, forming the junction of the frontiers of Yugoslavia, Italy and the Free

Territory of Trieste, and follows this administrative boundary as far as Monte Lanaro (point 546); thence it extends southeastward as far as Monte Cocusso (point 672) through point 461, Meducia (point 475), Monte dei Pini (point 476) and point 407, crossing Highway No. 58, from Trieste to Sesana, about 3.3 kilometers to the southwest of this town, and leaving the villages of Vogliano and Orle to the east, and at approximately 0.4 kilometer to the west, the village of Zolla.

(ii) From Monte Cocusso, the line, continuing southeastward leaving the village of Grozzana to the west, reaches Monte Goli (point 621), then turning southwestward, crosses the road from Trieste to Cosina at point 455 and the railway at point 485, passes by points 416 and 326, leaving the villages of Beca and Castel in Yugoslav territory, crosses the road from Ospso to Gabrovizza d'Istria about 100 meters to the southeast of Ospso; then crosses the river Risana and the road from Villa Decani to Risano at a point about 350 meters west of the latter village, the village of Rosario and the road from Risano to San Sergio being left in Yugoslav territory; from this point the line proceeds as far as the cross roads situated about 1 kilometer northeastward of point 362, passing by points 285 and 354.

(iii) Thence, the line runs as far as a point about 0.5 kilometer east of the village of Cernova, crossing the river Dragogna about 1 kilometer north of this village, leaving the villages of Bucciai and Truscolo to the west and the village of Tersecco to the east, it then runs southwestward to the southeast of the road connecting the villages of Cernova and Chervoi, leaving this road 0.8 kilometer to the east of the village of Cucciani; it then runs in a general south-southwesterly direction, passing about 0.4 kilometer east of Monte Braico and at about 0.4 kilometer

west of the village of Sterna Filaria, leaving the road running from this village to Piemonte to the east, passing about 0.4 kilometer west of the town of Piemonte and about 0.5 kilometer east of the town of Castagna and reaching the river Quieto at a point approximately 1.6 kilometer southwest of the town of Castagna.

(iv) Thence the line follows the main improved channel of the Quieto to its mouth, passing through Porto del Quieto to the high seas by following a line placed equidistant from the coastlines of the Free Territory of Trieste and Yugoslavia.

The map to which this description refers forms part of Annex 1.

SECTION IV—ITALIAN COLONIES

ARTICLE 23.—1. Italy renounces all right and title to the Italian territorial possessions in Africa, i. e. Libya, Eritrea and Italian Somaliland.

2. Pending their final disposal, the said possessions shall continue under their present administration.

3. The final disposal of these possessions shall be determined jointly by the Governments of the Soviet Union, of the United Kingdom, of the United States of America, and of France within one year from the coming into force of the present Treaty, in the manner laid down in the joint declaration of February 10, 1947, issued by the said Governments, which is reproduced in Annex XI.

SECTION V—SPECIAL INTERESTS OF CHINA

ARTICLE 24.—Italy renounces in favour of China all benefits and privileges resulting from the provisions of the final Protocol signed at Peking on September 7, 1901, and all annexes, notes and docu-

ments supplementary thereto, and agrees to the abrogation in respect of Italy of the said protocol, annexes, notes and documents. Italy likewise renounces any claim thereunder to an indemnity.

ARTICLE 25.—Italy agrees to the cancellation of the lease from the Chinese Government under which the Italian Concession at Tientsin was granted, and to the transfer to the Chinese Government of any property and archives belonging to the municipality of the said Concession.

ARTICLE 26.—Italy renounces in favour of China the rights accorded to Italy in relation to the International Settlements at Shanghai and Amoy, and agrees to the reversion of the said Settlements to the administration and control of the Chinese Government.

SECTION VI—ALBANIA

ARTICLE 27.—Italy recognises and undertakes to respect the sovereignty and independence of the State of Albania.

ARTICLE 28.—Italy recognises that the Island of Saseno is part of the territory of Albania and renounces all claims thereto.

ARTICLE 29.—Italy formally renounces in favour of Albania all property (apart from normal diplomatic or consular premises), rights, concessions, interests and advantages of all kinds in Albania, belonging to the Italian State or Italian para-statal institutions. Italy likewise renounces all claims to special interests or influence in Albania, acquired as a result of the aggression of April 7, 1939, or under treaties or agreements concluded before that date.

The economic clauses of the present Treaty, applicable to the Allied and Associated Powers, shall

apply to other Italian property and other economic relations between Albania and Italy.

ARTICLE 30.—Italian nationals in Albania will enjoy the same juridical status as other foreign nationals, but Italy recognises the legality of all Albanian measures annulling or modifying concessions or special rights granted to Italian nationals provided that such measures are taken within a year from the coming into force of the present Treaty.

ARTICLE 31.—Italy recognises that all agreements and arrangements made between Italy and the authorities installed in Albania by Italy from April 7, 1939, to September 3, 1943, are null and void.

ARTICLE 32.—Italy recognises the legality of any measures which Albania may consider necessary to take in order to confirm or give effect to the preceding provisions.

SECTION VII—ETHIOPIA

ARTICLE 33.—Italy recognises and undertakes to respect the sovereignty and independence of the State of Ethiopia.

ARTICLE 34.—Italy formally renounces in favour of Ethiopia all property (apart from normal diplomatic or consular premises), rights, interests and advantages of all kinds acquired at any time in Ethiopia by the Italian State, as well as all para-statal property as defined in paragraph 1 of Annex XIV of the present Treaty.

Italy also renounces all claims to special interests or influence in Ethiopia.

ARTICLE 35.—Italy recognises the legality of all measures which the Government of Ethiopia has taken or may hereafter take in order to annul Italian measures respecting Ethiopia taken after October 3, 1935, and the effects of such measures.

ARTICLE 36.—Italian nationals in Ethiopia will enjoy the same juridical status as other foreign nationals, but Italy recognises the legality of all measures of the Ethiopian Government annulling or modifying concessions or special rights granted to Italian nationals, provided such measures are taken within a year from the coming into force of the present Treaty.

ARTICLE 37.—Within eighteen months from the coming into force of the present Treaty, Italy shall restore all works of art, religious objects, archives and objects of historical value belonging to Ethiopia or its nationals and removed from Ethiopia to Italy since October 3, 1935.

ARTICLE 38.—The date from which the provisions of the present Treaty shall become applicable as regards all measures and acts of any kind whatsoever entailing the responsibility of Italy or of Italian nationals towards Ethiopia, shall be held to be October 3, 1935.

SECTION VIII—INTERNATIONAL AGREEMENTS

ARTICLE 39.—Italy undertakes to accept any arrangements which have been or may be agreed for the liquidation of the League of Nations, the Permanent Court of International Justice and also the International Financial Commission in Greece.

ARTICLE 40.—Italy hereby renounces all rights, titles and claims deriving from the mandate system or from any undertakings given in connection therewith, and all special rights of the Italian State in respect of any mandated territory.

ARTICLE 41.—Italy recognises the provisions of the Final Act of August 31, 1945, and of the Franco-British Agreement of the same date on the Statute of Tangier, as well as all provisions which may be

adopted by the Signatory Powers for carrying out these instruments.

ARTICLE 42.—Italy shall accept and recognise any arrangements which may be made by the Allied and Associated Powers concerned for the modification of the Congo Basin Treaties with a view to bringing them into accord with the Charter of the United Nations.

ARTICLE 43.—Italy hereby renounces any rights and interests she may possess by virtue of Article 16 of the Treaty of Lausanne signed on July 24, 1923.

SECTION IX—BILATERAL TREATIES

ARTICLE 44.—1. Each Allied or Associated Power will notify Italy, within a period of six months from the coming into force of the present Treaty, which of its pre-war bilateral treaties with Italy it desires to keep in force or revive. Any provisions not in conformity with the present Treaty shall, however, be deleted from the above-mentioned treaties.

2. All such treaties so notified shall be registered with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations.

3. All such treaties not so notified shall be regarded as abrogated.

PART III. WAR CRIMINALS

ARTICLE 45.—1. Italy shall take all necessary steps to ensure the apprehension and surrender for trial of:

(a) Persons accused of having committed, ordered or abetted war crimes and crimes against peace or humanity;

(b) Nationals of any Allied or Associated Power accused of having violated their national law by

treason or collaboration with the enemy during the war.

2. At the request of the United Nations Government concerned, Italy shall likewise make available as witnesses persons within its jurisdiction, whose evidence is required for the trial of the persons referred to in paragraph 1 of this Article.

3. Any disagreement concerning the application of the provisions of paragraphs 1 and 2 of this Article shall be referred by any of the Governments concerned to the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France, who will reach agreement with regard to the difficulty.

PART IV. NAVAL, MILITARY AND AIR CLAUSES

SECTION I—DURATION OF APPLICATION

ARTICLE 46.—Each of the military, naval and air clauses of the present Treaty shall remain in force until modified in whole or in part by agreement between the Allied and Associated Powers and Italy or, after Italy becomes a member of the United Nations, by agreement between the Security Council and Italy.

SECTION II—GENERAL LIMITATIONS

ARTICLE 47.—1. (a) The system of permanent Italian fortifications and military installations along the Franco-Italian frontier, and their armaments, shall be destroyed or removed.

(b) This system is deemed to comprise only artillery and infantry fortifications whether in groups or separated, pillboxes of any type, protected accommodation for personnel, stores and ammunition, observation posts and military cableways, whatever

may be their importance and actual condition of maintenance or state of construction, which are constructed of metal, masonry or concrete or excavated in the rock.

2. The destruction or removal, mentioned in paragraph 1 above, is limited to a distance of 20 kilometers from any point on the frontier as defined by the present Treaty, and shall be completed within one year from the coming into force of the Treaty.

3. Any reconstruction of the above-mentioned fortifications and installations is prohibited.

4. (a) The following construction to the east of the Franco-Italian frontier is prohibited: permanent fortifications where weapons capable of firing into French territory or territorial waters can be emplaced; permanent military installations capable of being used to conduct or direct fire into French territory or territorial waters; and permanent supply and storage facilities emplaced solely for the use of the above-mentioned fortifications and installations.

(b) This prohibition does not include other types of non-permanent fortifications or surface accommodations and installations which are designed to meet only requirements of an internal character and of local defence of the frontiers.

5. In a coastal area 15 kilometers deep, stretching from the Franco-Italian frontier to the meridian of $9^{\circ}30'$ E., Italy shall not establish any new, nor expand any existing naval bases or permanent naval installations. This does not prohibit minor alterations to, nor the maintenance in good repair of, existing naval installations provided that their overall capacity will not thereby be increased.

ARTICLE 48.—1. (a) Any permanent Italian fortifications and military installations along the Italo-Yugoslav frontier, and their armaments, shall be destroyed or removed.

(b) These fortifications and installations are deemed to comprise only artillery and infantry fortifications whether in groups or separated, pillboxes of any type, protected accommodation for personnel, stores and ammunition, observation posts and military cableways, whatever may be their importance and actual condition of maintenance or state of construction, which are constructed of metal, masonry or concrete or excavated in the rock.

2. The destruction or removal, mentioned in paragraph 1 above, is limited to a distance of 20 kilometers from any point on the frontier, as defined by the present Treaty, and shall be completed within one year from the coming into force of the Treaty.

3. Any reconstruction of the above-mentioned fortifications and installations is prohibited.

4. (a) The following construction to the west of the Italo-Yugoslav frontier is prohibited: permanent fortifications where weapons capable of firing into Yugoslav territory or territorial waters can be emplaced; permanent military installations capable of being used to conduct or direct fire into Yugoslav territory or territorial waters; and permanent supply and storage facilities emplaced solely for the use of the above-mentioned fortifications and installations.

(b) This prohibition does not include other types of non-permanent fortifications or surface accommodations and installations which are designed to meet only requirements of an internal character and of local defence of the frontiers.

5. In a coastal area 15 kilometers deep, stretching from the frontier between Italy and Yugoslavia and between Italy and the Free Territory of Trieste to the latitude of $44^{\circ}50'$ N. and in the islands adjacent to this coast, Italy shall not establish any new, nor expand any existing, naval bases or permanent naval installations. This does not prohibit minor altera-

tions to, nor the maintenance in good repair of, existing naval installations and bases provided that their overall capacity will not thereby be increased.

6. In the Apulian Peninsula east of longitude 17°45' E., Italy shall not construct any new permanent military, naval or military air installations nor expand existing installations. This does not prohibit minor alterations to, nor the maintenance in good repair of, existing installations provided that their overall capacity will not thereby be increased. Accommodation for such security forces as may be required for tasks of an internal character and local defence of frontiers will, however, be permitted.

ARTICLE 49.—1. Pantellaria, the Pelagian Islands (Lampedusa, Lampione and Linosa) and Pianosa (in the Adriatic) shall be and shall remain demilitarised.

2. Such demilitarisation shall be completed within one year from the coming into force of the present Treaty.

ARTICLE 50.—1. In Sardinia all permanent coast defence artillery emplacements and their armaments and all naval installations which are located within a distance of 30 kilometers from French territorial waters shall be removed to the mainland of Italy or demolished within one year from the coming into force of the present Treaty.

2. In Sicily and Sardinia all permanent installations and equipment for the maintenance and storage of torpedoes, sea mines and bombs shall be demolished or removed to the mainland of Italy within one year from the coming into force of the present Treaty.

3. No improvements to, reconstruction of, or extensions of existing installations or permanent fortifications in Sicily and Sardinia shall be permitted; however, with the exception of the northern Sardinia areas described in paragraph 1 above, normal maintenance of such installations or permanent fortifica-

tions and weapons already installed in them may take place.

4. In Sicily and Sardinia Italy shall be prohibited from constructing any naval, military and air force installations or fortifications except for such accommodation for security forces as may be required for tasks of an internal character.

ARTICLE 51.—Italy shall not possess, construct or experiment with (i) any atomic weapon, (ii) any self-propelled or guided missiles or apparatus connected with their discharge (other than torpedoes and torpedo-launching gear comprising the normal armament of naval vessels permitted by the present Treaty), (iii) any guns with a range of over 30 kilometers, (iv) sea mines or torpedoes of non-contact types actuated by influence mechanisms, (v) any torpedoes capable of being manned.

ARTICLE 52.—The acquisition of war material of German or Japanese origin or design, either from inside or outside Italy, or its manufacture, is prohibited to Italy.

ARTICLE 53.—Italy shall not manufacture or possess, either publicly or privately, any war material different in type from, or exceeding in quantity, that required for the forces permitted in Sections III, IV and V below.

ARTICLE 54.—The total number of heavy and medium tanks in the Italian armed forces shall not exceed 200.

ARTICLE 55.—In no case shall any officer or non-commissioned officer of the former Fascist Militia or of the former Fascist Republican Army be permitted to hold officer's or non-commissioned officer's rank in the Italian Navy, Army, Air Force or Carabinieri, with the exception of such persons as shall have been exonerated by the appropriate body in accordance with Italian law.

SECTION III—LIMITATION OF THE ITALIAN NAVY

ARTICLE 56.—1. The present Italian Fleet shall be reduced to the units listed in Annex XII A.

2. Additional units not listed in Annex XII and employed only for the specific purpose of minesweeping, may continue to be employed until the end of the mine clearance period as shall be determined by the International Central Board for Mine Clearance of European Waters.

3. Within two months from the end of the said period, such of these vessels as are on loan to the Italian Navy from other Powers shall be returned to those Powers, and all other additional units shall be disarmed and converted to civilian use.

ARTICLE 57.—1. Italy shall effect the following disposal of the units of the Italian Navy specified in Annex XII B:

(a) The said units shall be placed at the disposal of the Governments of the Soviet Union, of the United Kingdom, of the United States of America, and of France;

(b) Naval vessels required to be transferred in compliance with sub-paragraph (a) above shall be fully equipped, in operational condition including a full outfit of armament stores, and complete with on-board spare parts and all necessary technical data;

(c) The transfer of the naval vessels mentioned above shall be effected within three months from the coming into force of the present Treaty, except that, in the case of naval vessels that cannot be refitted within three months, the time limit for the transfer may be extended by the Four Governments;

(d) Reserve allowance of spare parts and arma-

ment stores for the naval vessels mentioned above shall, as far as possible, be supplied with the vessels.

The balance of reserve spare parts and armament stores shall be supplied to an extent and at dates to be decided by the Four Governments, in any case within a maximum of one year from the coming into force of the present Treaty.

2. Details relating to the above transfers will be arranged by a Four Power Commission to be established under a separate protocol.

3. In the event of loss or damage, from whatever cause, to any of the vessels in Annex XII B scheduled for transfer, and which cannot be made good by the agreed date for transfer of the vessel or vessels concerned, Italy undertakes to replace such vessel or vessels by equivalent tonnage from the list in Annex XII A, the actual vessel or vessels to be substituted being selected by the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France.

ARTICLE 58.—1. Italy shall effect the following disposal of submarines and non-operational naval vessels. The time limits specified below shall be taken as commencing with the coming into force of the present Treaty.

(a) Surface naval vessels afloat not listed in Annex XII, including naval vessels under construction afloat, shall be destroyed or scrapped for metal within nine months.

(b) Naval vessels under construction on slips shall be destroyed or scrapped for metal within nine months.

(c) Submarines afloat and not listed in Annex XII B shall be sunk in the open sea in a depth of over 100 fathoms within three months.

(d) Naval vessels sunk in Italian harbours and

approach channels, in obstruction of normal shipping, shall, within two years, either be destroyed on the spot or salvaged and subsequently destroyed or scrapped for metal.

(e) Naval vessels sunk in shallow Italian waters not in obstruction of normal shipping shall within one year be rendered incapable of salvage.

(f) Naval vessels capable of reconversion which do not come within the definition of war material, and which are not listed in Annex XII, may be reconverted to civilian uses or are to be demolished within two years.

2. Italy undertakes, prior to the sinking or destruction of naval vessels and submarines as provided for in the preceding paragraph, to salvage such equipment and spare parts as may be useful in completing the on-board and reserve allowances of spare parts and equipment to be supplied, in accordance with Article 57, paragraph 1, for all ships specified in Annex XII B.

3. Under the supervision of the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France, Italy may also salvage such equipment and spare parts of a non-warlike character as are readily adaptable for use in Italian civil economy.

ARTICLE 59.—1. No battleship shall be constructed, acquired or replaced by Italy.

2. No aircraft carrier, submarine or other submersible craft, motor torpedo boat or specialised types of assault craft shall be constructed, acquired, employed or experimented with by Italy.

3. The total standard displacement of the war vessels, other than battleships, of the Italian Navy, including vessels under construction after the date of launching, shall not exceed 67,500 tons.

4. Any replacement of war vessels by Italy shall be effected within the limit of tonnage given in paragraph 3. There shall be no restriction on the replacement of auxiliary vessels.

5. Italy undertakes not to acquire or lay down any war vessels before January 1, 1950, except as necessary to replace any vessel, other than a battleship, accidentally lost, in which case the displacement of the new vessel is not to exceed by more than ten per cent the displacement of the vessel lost.

6. The terms used in this Article are, for the purposes of the present Treaty, defined in Annex XIII A.

ARTICLE 60.—1. The total personnel of the Italian Navy, excluding any naval air personnel, shall not exceed 25,000 officers and men.

2. During the mine clearance period as determined by the International Central Board for Mine Clearance of European Waters, Italy shall be authorized to employ for this purpose an additional number of officers and men not to exceed 2,500.

3. Permanent naval personnel in excess of that permitted under paragraph 1 shall be progressively reduced as follows, time limits being taken as commencing with the coming into force of the present Treaty:

(a) To 30,000 within six months;

(b) To 25,000 within nine months.

Two months after the completion of mine sweeping by the Italian Navy, the excess personnel authorized by paragraph 2 is to be disbanded or absorbed within the above numbers.

4. Personnel, other than those authorized under paragraphs 1 and 2, and other than any naval air personnel authorized under Article 65, shall not receive any form of naval training as defined in Annex XIII B.

SECTION IV—LIMITATION OF THE ITALIAN ARMY

ARTICLE 61.—The Italian Army, including the Frontier Guards, shall be limited to a force of 185,000 combat, service and overhead personnel and 65,000 Carabinieri, though either of the above elements may be varied by 10,000 as long as the total ceiling does not exceed 250,000. The organisation and armament of the Italian ground forces, as well as their deployment throughout Italy, shall be designed to meet only tasks of an internal character, local defence of Italian frontiers and anti-aircraft defense.

ARTICLE 62.—The Italian Army, in excess of that permitted under Article 61 above, shall be disbanded within six months from the coming into force of the present Treaty.

ARTICLE 63.—Personnel other than those forming part of the Italian Army or Carabinieri shall not receive any form of military training as defined in Annex XIII B.

SECTION V—LIMITATION OF THE ITALIAN AIR FORCE

ARTICLE 64.—1. The Italian Air Force, including any naval air arm, shall be limited to a force of 200 fighter and reconnaissance aircraft and 150 transport, air-sea rescue, training (school type) and liaison aircraft. These totals include reserve aircraft. All aircraft except for fighter and reconnaissance aircraft shall be unarmed. The organisation and armament of the Italian Air Force as well as their deployment throughout Italy shall be designed to meet only tasks of an internal character, local defence of Italian frontiers and defence against air attack.

2. Italy shall not possess or acquire any aircraft designed primarily as bombers with internal bomb-carrying facilities.

ARTICLE 65.—1. The personnel of the Italian Air

Force, including any naval air personnel, shall be limited to a total of 25,000 effectives, which shall include combat, service and overhead personnel.

2. Personnel other than those forming part of the Italian Air Force shall not receive any form of military air training as defined in Annex XIII B.

ARTICLE 66.—The Italian Air Force, in excess of that permitted under Article 65 above, shall be disbanded within six months from the coming into force of the present Treaty.

SECTION VI—DISPOSAL OF WAR MATERIAL (as defined in Annex XIII C)

ARTICLE 67.—1. All Italian war material in excess of that permitted for the armed forces specified in Sections III, IV and V shall be placed at the disposal of the Governments of the Soviet Union, of the United Kingdom, of the United States of America, and of France, according to such instructions as they may give to Italy.

2. All Allied war material in excess of that permitted for the armed forces specified in Sections III, IV and V shall be placed at the disposal of the Allied or Associated Power concerned according to the instructions to be given to Italy by the Allied or Associated Power concerned.

3. All German and Japanese war material in excess of that permitted for the armed forces specified in Sections III, IV and V, and all German or Japanese drawings, including existing blueprints, prototypes, experimental models and plans, shall be placed at the disposal of the Four Governments in accordance with such instructions as they may give to Italy.

4. Italy shall renounce all rights to the above-mentioned war material and shall comply with the provisions of this Article within one year from the

coming into force of the present Treaty except as provided for in Articles 56 to 58 thereof.

5. Italy shall furnish to the Four Governments lists of all excess war material within six months from the coming into force of the present Treaty.

SECTION VII—PREVENTION OF GERMAN AND JAPANESE REARMAMENT

ARTICLE 68.—Italy undertakes to co-operate fully with the Allied and Associated Powers with a view to ensuring that Germany and Japan are unable to take steps outside German and Japanese territories towards rearmament.

ARTICLE 69.—Italy undertakes not to permit the employment or training in Italy of any technicians, including military or civil aviation personnel, who are or have been nationals of Germany or Japan.

ARTICLE 70.—Italy undertakes not to acquire or manufacture civil aircraft which are of German or Japanese design or which embody major assemblies of German or Japanese manufacture or design.

SECTION VIII—PRISONERS OF WAR

ARTICLE 71.—1. Italian prisoners of war shall be repatriated as soon as possible in accordance with arrangements agreed upon by the individual Powers detaining them and Italy.

2. All costs, including maintenance costs, incurred in moving Italian prisoners of war from their respective assembly points, as chosen by the Government of the Allied or Associated Power concerned, to the point of their entry into Italian territory, shall be borne by the Italian Government.

SECTION IX—MINE CLEARANCE

ARTICLE 72.—As from the coming into force of the present Treaty, Italy will be invited to join the Mediterranean Zone Board of the International Organisation for Mine Clearance of European Waters, and shall maintain at the disposal of the Central Mine Clearance Board all Italian minesweeping forces until the end of the post-war mine clearance period as determined by the Central Board.

PART V. WITHDRAWAL OF ALLIED FORCES

ARTICLE 73.—1. All armed forces of the Allied and Associated Powers shall be withdrawn from Italy as soon as possible and in any case not later than 90 days from the coming into force of the present Treaty.

2. All Italian goods for which compensation has not been made and which are in possession of the armed forces of the Allied and Associated Powers in Italy at the coming into force of the present Treaty shall be returned to the Italian Government within the same period of 90 days or due compensation shall be made.

3. All bank and cash balances in the hands of the forces of the Allied and Associated Powers at the coming into force of the present Treaty which have been supplied free of cost by the Italian Government shall similarly be returned or a corresponding credit given to the Italian Government.

PART VI. CLAIMS ARISING OUT OF THE WAR

SECTION I—REPARATION

A. *Reparation for the Union of Soviet Socialist Republics*

ARTICLE 74.—1. Italy shall pay the Soviet Union reparation in the amount of \$100,000,000 during a

period of seven years from the coming into force of the present Treaty. Deliveries from current industrial production shall not be made during the first two years.

2. Reparation shall be made from the following sources:

(a) A share of the Italian factory and tool equipment designed for the manufacture of war material, which is not required by the permitted military establishments, which is not readily susceptible of conversion to civilian purposes and which will be removed from Italy pursuant to Article 67 of the present Treaty;

(b) Italian assets in Roumania, Bulgaria and Hungary, subject to the exceptions specified in paragraph 6 of Article 79;

(c) Italian current industrial production, including production by extractive industries.

3. The quantities and types of goods to be delivered shall be the subject of agreements between the Governments of the Soviet Union and of Italy, and shall be selected and deliveries shall be scheduled in such a way as to avoid interference with the economic reconstruction of Italy and the imposition of additional liabilities on other Allied or Associated Powers. Agreements concluded under this paragraph shall be communicated to the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France.

4. The Soviet Union shall furnish to Italy on commercial terms the materials which are normally imported into Italy and which are needed for the production of these goods. Payments for these materials shall be made by deducting the value of the materials furnished from the value of the goods delivered to the Soviet Union.

5. The Four Ambassadors shall determine the value of the Italian assets to be transferred to the Soviet Union.

6. The basis of calculation for the settlement provided in this Article will be the United States dollar at its gold parity on July 1, 1946, i. e. \$35 for one ounce of gold.

B. *Reparation for Albania, Ethiopia, Greece and Yugoslavia*

1. Italy shall pay reparation to the following States:

Albania in the amount of.....	\$5,000,000
Ethiopia in the amount of.....	25,000,000
Greece in the amount of.....	105,000,000
Yugoslavia in the amount of.....	125,000,000

These payments shall be made during a period of seven years from the coming into force of the present Treaty. Deliveries from current industrial production shall not be made during the first two years.

2. Reparation shall be made from the following sources:

(a) A share of the Italian factory and tool equipment designed for the manufacture of war material, which is not required by the permitted military establishments, which is not readily susceptible of conversion to civilian purposes and which will be removed from Italy pursuant to Article 67 of the present Treaty;

(b) Italian current industrial production, including production by extractive industries;

(c) All other categories of capital goods or services, excluding Italian assets which, under Article 79 of the present Treaty, are subject to the jurisdiction of the States mentioned in paragraph 1 above. Deliveries under this paragraph shall include either or both of the passenger vessels *Saturnia* and *Vulcania*,

if, after their value has been determined by the Four Ambassadors, they are claimed within 90 days by one of the States mentioned in paragraph 1 above. Such deliveries may also include seeds.

3. The quantities and types of goods and services to be delivered shall be the subject of agreements between the Governments entitled to receive reparation and the Italian Government, and shall be selected and deliveries shall be scheduled in such a way as to avoid interference with the economic reconstruction of Italy and the imposition of additional liabilities on other Allied or Associated Powers.

4. The States entitled to receive reparation from current industrial production shall furnish to Italy on commercial terms the materials which are normally imported into Italy and which are needed for the production of these goods. Payment for these materials shall be made by deducting the value of the materials furnished from the value of the goods delivered.

5. The basis of calculation for the settlement provided in this Article will be the United States dollar at its gold parity on July 1, 1946, i. e. \$35 for one ounce of gold.

6. Claims of the States mentioned in paragraph 1 of part B of this Article, in excess of the amounts of reparation specified in that paragraph, shall be satisfied out of the Italian assets subject to their respective jurisdictions under Article 79 of the present Treaty.

7. (a) The Four Ambassadors will coordinate and supervise the execution of the provisions of part B of this Article. They will consult with the Heads of the Diplomatic Missions in Rome of the States named in paragraph 1 of part B and, as circumstances may require, with the Italian Government,

and advise them. For the purpose of this Article, the Four Ambassadors will continue to act until the expiration of the period for reparation deliveries provided in paragraph 1 of part B.

(b) With a view to avoiding conflict or overlapping in the allocation of Italian production and resources among the several States entitled to reparation under part B of this Article, the Four Ambassadors shall be informed by any one of the Governments entitled to reparation under part B of this Article and by the Italian Government of the opening of negotiations for an agreement under paragraph 3 above and of the progress of such negotiations. In the event of any differences arising in the course of the negotiations the Four Ambassadors shall be competent to decide any point submitted to them by either Government or by any other Government entitled to reparation under part B of this Article.

(c) Agreements when concluded shall be communicated to the Four Ambassadors. The Four Ambassadors may recommend that an agreement which is not, or has ceased to be, in consonance with the objectives set out in paragraph 3 or sub-paragraph (b) above be appropriately modified.

C. Special Provision for Earlier Deliveries

With respect to deliveries from current industrial production, as provided in part A, paragraph 2 (c) and part B, paragraph 2 (b), nothing in either part A or part B of this Article shall be deemed to prevent deliveries during the first two years, if such deliveries are made in accordance with agreements between the Government entitled to reparation and the Italian Government.

D. *Reparation for Other States*

1. Claims of the other Allied and Associated Powers shall be satisfied out of the Italian assets subject to their respective jurisdictions under Article 79 of the present Treaty.

2. The claims of any State which is receiving territories under the present Treaty and which is not mentioned in part B of this Article shall also be satisfied with the transfer to the said State, without payment, of the industrial installations and equipment situated in the ceded territories and employed in the distribution of water, and the production and distribution of gas and electricity, owned by an Italian company whose *siège social* is in Italy or is transferred to Italy, as well as by the transfer of all other assets of such companies in ceded territories.

3. Responsibility for the financial obligations secured by mortgages, liens and other charges on such property shall be assumed by the Italian Government.

E. *Compensation for Property Taken for Reparation Purposes*

The Italian Government undertakes to compensate all natural or juridical persons whose property is taken for reparation purposes under this Article.

SECTION II—RESTITUTION BY ITALY

ARTICLE 75.—1. Italy accepts the principles of the United Nations Declaration of January 5, 1943, and shall return, in the shortest possible time, property removed from the territory of any of the United Nations.

2. The obligation to make restitution applies to all identifiable property at present in Italy which was removed by force or duress by any of the Axis

Powers from the territory of any of the United Nations, irrespective of any subsequent transactions by which the present holder of any such property has secured possession.

3. The Italian Government shall return the property referred to in this Article in good order and, in this connection, shall bear all costs in Italy relating to labour, materials and transport.

4. The Italian Government shall co-operate with the United Nations in, and shall provide at its own expense all necessary facilities for, the search for and restitution of property liable to restitution under this Article.

5. The Italian Government shall take the necessary measures to effect the return of property covered by this Article held in any third country by persons subject to Italian jurisdiction.

6. Claims for the restitution of property shall be presented to the Italian Government by the Government of the country from whose territory the property was removed, it being understood that rolling stock shall be regarded as having been removed from the territory to which it originally belonged. The period during which such claims may be presented shall be six months from the coming into force of the present Treaty.

7. The burden of identifying the property and of proving ownership shall rest on the claimant Government, and the burden of proving that the property was not removed by force or duress shall rest on the Italian Government.

8. The Italian Government shall restore to the Government of the United Nation concerned all monetary gold looted by or wrongfully removed to Italy or shall transfer to the Government of the United Nation concerned an amount of gold equal

in weight and fineness to that looted or wrongfully removed. This obligation is recognised by the Italian Government to exist irrespective of any transfers or removals of gold from Italy to any other Axis Power or a neutral country.

9. If, in particular cases, it is impossible for Italy to make restitution of objects of artistic, historical or archaeological value, belonging to the cultural heritage of the United Nation from whose territory such objects were removed by force or duress by Italian forces, authorities or nationals, Italy shall transfer to the United Nation concerned objects of the same kind as, and of approximately equivalent value to, the objects removed, in so far as such objects are obtainable in Italy.

SECTION III—RENUNCIATION OF CLAIMS BY ITALY

ARTICLE 76.—1. Italy waives all claims of any description against the Allied and Associated Powers on behalf of the Italian Government or Italian nationals arising directly out of the war or out of actions taken because of the existence of a state of war in Europe after September 1, 1939, whether or not the Allied or Associated Power was at war with Italy at the time, including the following:

(a) Claims for losses or damages sustained as a consequence of acts of forces or authorities of Allied or Associated Powers;

(b) Claims arising from the presence, operations, or actions of forces or authorities of Allied or Associated Powers in Italian territory;

(c) Claims with respect to the decrees or orders of Prize Courts of Allied or Associated Powers, Italy agreeing to accept as valid and binding all decrees and orders of such Prize Courts on or after September

1, 1939, concerning Italian ships or Italian goods or the payment of costs;

(d) Claims arising out of the exercise or purported exercise of belligerent rights.

2. The provisions of this Article shall bar, completely and finally, all claims of the nature referred to herein, which will be henceforward extinguished, whoever may be the parties in interest. The Italian Government agrees to make equitable compensation in lire to persons who furnished supplies or services on requisition to the forces of Allied or Associated Powers in Italian territory and in satisfaction of non-combat damage claims against the forces of Allied or Associated Powers arising in Italian territory.

3. Italy likewise waives all claims of the nature covered by paragraph 1 of this Article on behalf of the Italian Government or Italian nationals against any of the United Nations which broke off diplomatic relations with Italy and which took action in co-operation with the Allied and Associated Powers.

4. The Italian Government shall assume full responsibility for all Allied military currency issued in Italy by the Allied military authorities, including all such currency in circulation at the coming into force of the present Treaty.

5. The waiver of claims by Italy under paragraph 1 of this Article includes any claims arising out of actions taken by any of the Allied and Associated Powers with respect to Italian ships between September 1, 1939, and the coming into force of the present Treaty, as well as any claims and debts arising out of the Conventions on prisoners of war now in force.

6. The provisions of this Article shall not be deemed to affect the ownership of submarine cables

which, at the outbreak of the war, were owned by the Italian Government or Italian nationals. This paragraph shall not preclude the application of Article 79 and Annex XIV to submarine cables.

ARTICLE 77.—1. From the coming into force of the present Treaty property in Germany of Italy and of Italian nationals shall no longer be treated as enemy property and all restrictions based on such treatment shall be removed.

2. Identifiable property of Italy and of Italian nationals removed by force or duress from Italian territory to Germany by German forces or authorities after September 3, 1943, shall be eligible for restitution.

3. The restoration and restitution of Italian property in Germany shall be effected in accordance with measures which will be determined by the Powers in occupation of Germany.

4. Without prejudice to these and to any other dispositions in favour of Italy and Italian nationals by the Powers occupying Germany, Italy waives on its own behalf and on behalf of Italian nationals all claims against Germany and German nationals outstanding on May 8, 1945, except those arising out of contracts and other obligations entered into, and rights acquired, before September 1, 1939. This waiver shall be deemed to include debts, all inter-governmental claims in respect of arrangements entered into in the course of the war, and all claims for loss or damage arising during the war.

5. Italy agrees to take all necessary measures to facilitate such transfers of German assets in Italy as may be determined by those of the Powers occupying Germany which are empowered to dispose of the said assets.

PART VII. PROPERTY, RIGHTS AND INTERESTS

SECTION I—UNITED NATIONS PROPERTY IN ITALY

ARTICLE 78.—1. In so far as Italy has not already done so, Italy shall restore all legal rights and interests in Italy of the United Nations and their nationals as they existed on June 10, 1940, and shall return all property in Italy of the United Nations and their nationals as it now exists.

2. The Italian Government undertakes that all property, rights and interests passing under this Article shall be restored free of all encumbrances and charges of any kind to which they may have become subject as a result of the war and without the imposition of any charges by the Italian Government in connection with their return. The Italian Government shall nullify all measures, including seizures, sequestration or control, taken by it against United Nations property between June 10, 1940, and the coming into force of the present Treaty. In cases where the property has not been returned within six months from the coming into force of the present Treaty, application shall be made to the Italian authorities not later than twelve months from the coming into force of the present Treaty, except in cases in which the claimant is able to show that he could not file his application within this period.

3. The Italian Government shall invalidate transfers involving property, rights and interests of any description belonging to United Nations nationals, where such transfers resulted from force or duress exerted by Axis Governments or their agencies during the war.

4. (a) The Italian Government shall be responsible for the restoration to complete good order of the

property returned to United Nations nationals under paragraph 1 of this Article. In cases where property cannot be returned or where, as a result of the war, a United Nations national has suffered a loss by reason of injury or damage to property in Italy, he shall receive from the Italian Government compensation in lire to the extent of two-thirds of the sum necessary, at the date of payment, to purchase similar property or to make good the loss suffered. In no event shall United Nations nationals receive less favourable treatment with respect to compensation than that accorded to Italian nationals.

(b) United Nations nationals who hold, directly or indirectly, ownership interests in corporations or associations which are not United Nations nationals within the meaning of paragraph 9 (a) of this Article, but which have suffered a loss by reason of injury or damage to property in Italy, shall receive compensation in accordance with sub-paragraph (a) above. This compensation shall be calculated on the basis of the total loss or damage suffered by the corporation or association and shall bear the same proportion to such loss or damage as the beneficial interests of such nationals in the corporation or association bear to the total capital thereof.

(c) Compensation shall be paid free of any levies, taxes or other charges. It shall be freely usable in Italy but shall be subject to the foreign exchange control regulations which may be in force in Italy from time to time.

(d) The Italian Government shall grant United Nations nationals an indemnity in lire at the same rate as provided in sub-paragraph (a) above to compensate them for the loss or damage due to special measures applied to their property during the war, and which were not applicable to Italian property. This sub-paragraph does not apply to a loss of profit.

5. All reasonable expenses incurred in Italy in establishing claims, including the assessment of loss or damage, shall be borne by the Italian Government.

6. United Nations nationals and their property shall be exempted from any exceptional taxes, levies or imposts imposed on their capital assets in Italy by the Italian Government or any Italian authority between September 3, 1943, and the coming into force of the present Treaty for the specific purpose of meeting charges arising out of the war or of meeting the costs of occupying forces or of reparation payable to any of the United Nations. Any sums which have been so paid shall be refunded.

7. Notwithstanding the territorial transfers provided in the present Treaty, Italy shall continue to be responsible for loss or damage sustained during the war by property in ceded territory or in the Free Territory of Trieste belonging to United Nations nationals. The obligations contained in paragraphs 3, 4, 5 and 6 of this Article shall also rest on the Italian Government in regard to property in ceded territory and in the Free Territory of Trieste of United Nations nationals except in so far as this would conflict with the provisions of paragraph 14 of Annex X and paragraph 14 of Annex XIV of the present Treaty.

8. The owner of the property concerned and the Italian Government may agree upon arrangements in lieu of the provisions of this Article.

9. As used in this Article:

(a) "United Nations nationals" means individuals who are nationals of any of the United Nations, or corporations or associations organized under the laws of any of the United Nations, at the coming into force of the present Treaty, provided that the said individuals, corporations or associations also had this

status on September 3, 1943, the date of the Armistice with Italy.

The term "United Nations nationals" also includes all individuals, corporations or associations which, under the laws in force in Italy during the war, have been treated as enemy;

(b) "Owner" means the United Nations national, as defined in sub-paragraph (a) above, who is entitled to the property in question, and includes a successor of the owner, provided that the successor is also a United Nations national as defined in sub-paragraph (a). If the successor has purchased the property in its damaged state, the transferor shall retain his rights to compensation under this Article, without prejudice to obligations between the transferor and the purchaser under domestic law;

(c) "Property" means all movable or immovable property, whether tangible or intangible, including industrial, literary and artistic property, as well as all rights or interests of any kind in property. Without prejudice to the generality of the foregoing provisions, the property of the United Nations and their nationals includes all seagoing and river vessels, together with their gear and equipment, which were either owned by United Nations or their nationals, or registered in the territory of one of the United Nations, or sailed under the flag of one of the United Nations and which, after June 10, 1940, while in Italian waters, or after they had been forcibly brought into Italian waters, either were placed under the control of the Italian authorities as enemy property or ceased to be at the free disposal in Italy of the United Nations or their nationals, as a result of measures of control taken by the Italian authorities in relation to the existence of a state of war between members of the United Nations and Germany.

SECTION II—ITALIAN PROPERTY IN THE TERRITORY OF ALLIED AND ASSOCIATED POWERS

ARTICLE 79.—1. Each of the Allied and Associated Powers shall have the right to seize, retain, liquidate or take any other action with respect to all property, rights and interests which on the coming into force of the present Treaty are within its territory and belong to Italy or to Italian nationals, and to apply such property or the proceeds thereof to such purposes as it may desire, within the limits of its claims and those of its nationals against Italy or Italian nationals, including debts, other than claims fully satisfied under other Articles of the present Treaty. All Italian property, or the proceeds thereof, in excess of the amount of such claims, shall be returned.

2. The liquidation and disposition of Italian property shall be carried out in accordance with the law of the Allied or Associated Power concerned. The Italian owner shall have no rights with respect to such property except those which may be given him by that law.

3. The Italian Government undertakes to compensate Italian nationals whose property is taken under this Article and not returned to them.

4. No obligation is created by this Article on any Allied or Associated Power to return industrial property to the Italian Government or Italian nationals, or to include such property in determining the amounts which may be retained under paragraph 1 of this Article. The Government of each of the Allied and Associated Powers shall have the right to impose such limitations, conditions and restrictions on rights or interests with respect to industrial property in the territory of that Allied or Associated Power, acquired prior to the coming into force of the present Treaty by the Government or nationals of

Italy, as may be deemed by the Government of the Allied or Associated Power to be necessary in the national interest.

5. (a) Italian submarine cables connecting points in Yugoslavia shall be deemed to be Italian property in Yugoslavia, despite the fact that lengths of these cables may lie outside the territorial waters of Yugoslavia.

(b) Italian submarine cables connecting a point in the territory of an Allied or Associated Power with a point in Italian territory shall be deemed to be Italian property within the meaning of this Article so far as concerns the terminal facilities and the lengths of cables lying within territorial waters of that Allied or Associated Power.

6. The property covered by paragraph 1 of this Article shall be deemed to include Italian property which has been subject to control by reason of a state of war existing between Italy and the Allied or Associated Power having jurisdiction over the property, but shall not include:

(a) Property of the Italian Government used for consular or diplomatic purposes;

(b) Property belonging to religious bodies or private charitable institutions and used exclusively for religious or charitable purposes;

(c) Property of natural persons who are Italian nationals permitted to reside within the territory of the country in which the property is located or to reside elsewhere in United Nations territory, other than Italian property which at any time during the war was subjected to measures not generally applicable to the property of Italian nationals resident in the same territory;

(d) Property rights arising since the resumption of trade and financial relations between the Allied and Associated Powers and Italy, or arising out of

transactions between the Government of any Allied or Associated Power and Italy since September 3, 1943;

(e) Literary and artistic property rights;

(f) Property in ceded territories of Italian nationals, to which the provisions of Annex XIV shall apply;

(g) With the exception of the assets indicated in Article 74, part A, paragraph 2 (b) and part D, paragraph 1, property of natural persons residing in ceded territories or in the Free Territory of Trieste who do not opt for Italian nationality under the present Treaty, and property of corporations or associations having *siège social* in ceded territories or in the Free Territory of Trieste, provided that such corporations or associations are not owned or controlled by persons in Italy. In the cases provided under Article 74, part A, paragraph 2 (b), and part D, paragraph 1, the question of compensation will be dealt with under Article 74, part E.

SECTION III—DECLARATION OF THE ALLIED AND ASSOCIATED POWERS IN RESPECT OF CLAIMS

ARTICLE 80.—The Allied and Associated Powers declare that the rights attributed to them under Articles 74 and 79 of the present Treaty cover all their claims and those of their nationals for loss or damage due to acts of war, including measures due to the occupation of their territory, attributable to Italy and having occurred outside Italian territory, with the exception of claims based on Articles 75 and 78.

SECTION IV—DEBTS

ARTICLE 81.—1. The existence of the state of war shall not, in itself, be regarded as affecting the obligation to pay pecuniary debts arising out of obliga-

tions and contracts which existed, and rights which were acquired, before the existence of the state of war, which became payable prior to the coming into force of the present Treaty, and which are due by the Government or nationals of Italy to the Government or nationals of one of the Allied and Associated Powers or are due by the Government or nationals of one of the Allied and Associated Powers to the Government or nationals of Italy.

2. Except as otherwise expressly provided in the present Treaty, nothing therein shall be construed as impairing debtor-creditor relationships arising out of pre-war contracts concluded either by the Government or nationals of Italy.

PART VIII. GENERAL ECONOMIC RELATIONS

ARTICLE 82.—1. Pending the conclusion of commercial treaties or agreements between individual United Nations and Italy, the Italian Government shall, during a period of eighteen months from the coming into force of the present Treaty, grant the following treatment to each of the United Nations which, in fact, reciprocally grants similar treatment in like matters to Italy:

(a) In all that concerns duties and charges on importation or exportation, the internal taxation of imported goods and all regulations pertaining thereto, the United Nations shall be granted unconditional most-favoured-nation treatment;

(b) In all other respects, Italy shall make no arbitrary discrimination against goods originating in or destined for any territory of any of the United Nations as compared with like goods originating in or destined for territory of any other of the United Nations or of any other foreign country;

(c) United Nations nationals, including juridical

persons, shall be granted national and most-favoured-nation treatment in all matters pertaining to commerce, industry, shipping and other forms of business activity within Italy. These provisions shall not apply to commercial aviation;

(d) Italy shall grant no exclusive or discriminatory right to any country with regard to the operation of commercial aircraft in international traffic, shall afford all the United Nations equality of opportunity in obtaining international commercial aviation rights in Italian territory, including the right to land for refueling and repair, and, with regard to the operation of commercial aircraft in international traffic, shall grant on a reciprocal and non-discriminatory basis to all United Nations the right to fly over Italian territory without landing. These provisions shall not affect the interests of the national defense of Italy.

2. The foregoing undertakings by Italy shall be understood to be subject to the exceptions customarily included in commercial treaties concluded by Italy before the war; and the provisions with respect to reciprocity granted by each of the United Nations shall be understood to be subject to the exceptions customarily included in the commercial treaties concluded by that State.

PART IX. SETTLEMENT OF DISPUTES

ARTICLE 83.—1. Any disputes which may arise in giving effect to Articles 75 and 78 and Annexes XIV, XV, XVI and XVII, part B, of the present Treaty shall be referred to a Conciliation Commission consisting of one representative of the Government of the United Nation concerned and one representative of the Government of Italy, having equal status. If within three months after the dispute has been referred to the Conciliation Commission no agree-

ment has been reached, either Government may ask for the addition to the Commission of a third member selected by mutual agreement of the two Governments from nationals of a third country. Should the two Governments fail to agree within two months on the selection of a third member of the Commission, the Governments shall apply to the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France, who will appoint the third member of the Commission. If the Ambassadors are unable to agree within a period of one month upon the appointment of the third member, the Secretary-General of the United Nations may be requested by either party to make the appointment.

2. When any Conciliation Commission is established under paragraph 1 above, it shall have jurisdiction over all disputes which may thereafter arise between the United Nation concerned and Italy in the application or interpretation of Articles 75 and 78 and Annexes XIV, XV, XVI, and XVII, part B, of the present Treaty, and shall perform the functions attributed to it by those provisions.

3. Each Conciliation Commission shall determine its own procedure, adopting rules conforming to justice and equity.

4. Each Government shall pay the salary of the member of the Conciliation Commission whom it appoints and of any agent whom it may designate to represent it before the Commission. The salary of the third member shall be fixed by special agreement between the Governments concerned and this salary, together with the common expenses of each Commission, shall be paid in equal shares by the two Governments.

5. The parties undertake that their authorities

shall furnish directly to the Conciliation Commission all assistance which may be within their power.

6. The decision of the majority of the members of the Commission shall be the decision of the Commission, and shall be accepted by the parties as definitive and binding.

PART X. MISCELLANEOUS ECONOMIC PROVISIONS

ARTICLE 84.—Articles 75, 78, 82 and Annex XVII of the present Treaty shall apply to the Allied and Associated Powers and to those of the United Nations which broke off diplomatic relations with Italy or with which Italy broke off diplomatic relations. These Articles and this Annex shall also apply to Albania and Norway.

ARTICLE 85.—The provisions of Annexes VIII, X, XIV, XV, XVI and XVII shall, as in the case of the other Annexes, have force and effect as integral parts of the present Treaty.

PART XI. FINAL CLAUSES

ARTICLE 86.—1. For a period not to exceed eighteen months from the coming into force of the present Treaty, the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France, acting in concert, will represent the Allied and Associated Powers in dealing with the Italian Government in all matters concerning the execution and interpretation of the present Treaty.

2. The Four Ambassadors will give the Italian Government such guidance, technical advice and clarification as may be necessary to ensure the rapid and efficient execution of the present Treaty both in letter and in spirit.

3. The Italian Government shall afford to the said Four Ambassadors all necessary information and any assistance which they may require in the fulfilment of the tasks devolving on them under the present Treaty.

ARTICLE 87.—1. Except where another procedure is specifically provided under any Article of the present Treaty, any dispute concerning the interpretation or execution of the Treaty, which is not settled by direct diplomatic negotiations, shall be referred to the Four Ambassadors acting under Article 86 except that in this case the Ambassadors will not be restricted by the time limit provided in that Article. Any such dispute not resolved by them within a period of two months shall, unless the parties to the dispute mutually agree upon another means of settlement, be referred at the request of either party to the dispute to a Commission composed of one representative of each party and a third member selected by mutual agreement of the two parties from nationals of a third country. Should the two parties fail to agree within a period of one month upon the appointment of the third member, the Secretary-General of the United Nations may be requested by either party to make the appointment.

2. The decision of the majority of the members of the Commission shall be the decision of the Commission, and shall be accepted by the parties as definitive and binding.

ARTICLE 88.—1. Any member of the United Nations, not a signatory to the present Treaty, which is at war with Italy, and Albania, may accede to the Treaty and upon accession shall be deemed to be an Associated Power for the purposes of the Treaty.

2. Instruments of accession shall be deposited

with the Government of the French Republic and shall take effect upon deposit.

ARTICLE 89.—The provisions of the present Treaty shall not confer any rights or benefits on any State named in the Preamble as one of the Allied and Associated Powers or on its nationals until such State becomes a party to the Treaty by deposit of its instrument of ratification.

ARTICLE 90.—The present Treaty, of which the French, English and Russian texts are authentic, shall be ratified by the Allied and Associated Powers. It shall also be ratified by Italy. It shall come into force immediately upon the deposit of ratifications by the Union of Soviet Socialist Republics, by the United Kingdom of Great Britain and Northern Ireland, by the United States of America, and by France. The instruments of ratification shall, in the shortest time possible, be deposited with the Government of the French Republic.

With respect to each Allied or Associated Power whose instrument of ratification is thereafter deposited, the Treaty shall come into force upon the date of deposit. The present Treaty shall be deposited in the archives of the Government of the French Republic, which shall furnish certified copies to each of the signatory States.

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THE AUSTRIAN AND ITALIAN GOVERNMENTS
ON SEPTEMBER 5, 1946

(Original English Text as Signed by the Two Parties
and Communicated to the Paris Conference on
September 6, 1946)

(See Article 10)

1. German-speaking inhabitants of the Bolzano Province and of the neighbouring bilingual townships of the Trento Province will be assured complete equality of rights with the Italian-speaking inhabitants, within the framework of special provisions to safeguard the ethnical character and the cultural and economic development of the German-speaking element.

In accordance with legislation already enacted or awaiting enactment the said German-speaking citizens will be granted in particular:

(a) elementary and secondary teaching in the mother-tongue;

(b) parification of the German and Italian languages in public offices and official documents, as well as in bilingual topographic naming;

(c) the right to re-establish German family names which were italianized in recent years;

(d) equality of rights as regards the entering upon public offices, with a view to reaching a more appropriate proportion of employment between the two ethnical groups.

2. The populations of the above-mentioned zones will be granted the exercise of autonomous legislative

and executive regional power. The frame within which the said provisions of autonomy will apply, will be drafted in consultation also with local representative German-speaking elements.

3. The Italian Government, with the aim of establishing good neighbourhood relations between Austria and Italy, pledges itself, in consultation with the Austrian Government and within one year from the signing of the present Treaty:

(a) to revise in a spirit of equity and broadmindedness the question of the options for citizenship resulting from the 1939 Hitler-Mussolini agreements;

(b) to find an agreement for the mutual recognition of the validity of certain degrees and University diplomas;

(c) to draw up a convention for the free passengers and goods transit between northern and eastern Tyrol both by rail and, to the greatest possible extent, by road;

(d) to reach special agreements aimed at facilitating enlarged frontier traffic and local exchanges of certain quantities of characteristic products and goods between Austria and Italy.

ANNEX VI. PERMANENT STATUTE OF THE FREE TERRITORY OF TRIESTE

(See Article 21)

ARTICLE 1. *Area of Free Territory*.—The area of the Free Territory of Trieste shall be the territory within the frontiers described in Articles 4 and 22 of the present Treaty as delimited in accordance with Article 5 of the Treaty.

ARTICLE 2. *Integrity and Independence*.—The integrity and independence of the Free Territory shall be assured by the Security Council of the United

Nations Organization. This responsibility implies that the Council shall:

(a) ensure the observance of the present Statute and in particular the protection of the basic human rights of the inhabitants.

(b) ensure the maintenance of public order and security in the Free Territory.

ARTICLE 3. *Demilitarisation and Neutrality*.—1. The Free Territory shall be demilitarised and declared neutral.

2. No armed forces, except upon direction of the Security Council, shall be allowed in the Free Territory.

3. No para-military formations, exercises or activities shall be permitted within the Free Territory.

4. The Government of the Free Territory shall not make or discuss any military arrangements or undertakings with any State.

ARTICLE 4. *Human Rights and Fundamental Freedoms*.—The Constitution of the Free Territory shall ensure to all persons under the jurisdiction of the Free Territory, without distinction as to ethnic origin, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of religious worship, language, speech and publication, education, assembly and association. Citizens of the Free Territory shall be assured of equality of eligibility for public office.

ARTICLE 5. *Civil and Political Rights*.—No person who has acquired the citizenship of the Free Territory shall be deprived of his civil or political rights except as judicial punishment for the infraction of the penal laws of the Free Territory.

ARTICLE 6. *Citizenship*.—1. Italian citizens who were domiciled on June 10, 1940, in the area comprised within the boundaries of the Free Territory, and their children born after that date, shall become

original citizens of the Free Territory with full civil and political rights. Upon becoming citizens of the Free Territory they shall lose their Italian citizenship.

2. The Government of the Free Territory shall, however, provide that the persons referred to in paragraph 1 over the age of eighteen years (or married persons whether under or over that age) whose customary language is Italian shall be entitled to opt for Italian citizenship within six months from the coming into force of the Constitution under conditions to be laid down therein. Any person so opting shall be considered to have re-acquired Italian citizenship. The option of the husband shall not constitute an option on the part of the wife. Option on the part of the father, or if the father is not alive, on the part of the mother, shall, however, automatically include all unmarried children under the age of eighteen years.

3. The Free Territory may require those who take advantage of the option to move to Italy within a year from the date on which the option was exercised.

4. The conditions for the acquisition of citizenship by persons not qualifying for original citizenship shall be determined by the Constituent Assembly of the Free Territory and embodied in the Constitution. Such conditions shall, however, exclude the acquisition of citizenship by members of the former Italian Fascist Police (O. V. R. A.) who have not been exonerated by the competent authorities, including the Allied Military Authorities who were responsible for the administration of the area.

ARTICLE 7. *Official Languages*.—The official languages of the Free Territory shall be Italian and Slovene. The Constitution shall determine in what circumstances Croat may be used as a third official language.

ARTICLE 8. *Flag and Coat-of-Arms*.—The Free

Territory shall have its own flag and coat-of-arms. The flag shall be the traditional flag of the City of Trieste and the arms shall be its historic coat-of-arms.

ARTICLE 9. *Organs of Government*.—For the government of the Free Territory there shall be a Governor, a Council of Government, a popular Assembly elected by the people of the Free Territory and a Judiciary, whose respective powers shall be exercised in accordance with the provisions of the present Statute and of the Constitution of the Free Territory.

ARTICLE 10. *Constitution*.—1. The Constitution of the Free Territory shall be established in accordance with democratic principles and adopted by a Constituent Assembly with a two-thirds majority of the votes cast. The Constitution shall be made to conform to the provisions of the present Statute and shall not enter into force prior to the coming into force of the Statute.

2. If in the opinion of the Governor any provisions of the Constitution proposed by the Constituent Assembly or any subsequent amendments thereto are in contradiction to the Statute he may prevent their entry into force, subject to reference to the Security Council if the Assembly does not accept his views and recommendations.

ARTICLE 11. *Appointment of the Governor*.—1. The Governor shall be appointed by the Security Council after consultation with the Governments of Yugoslavia and Italy. He shall not be a citizen of Yugoslavia or Italy or of the Free Territory. He shall be appointed for five years and may be reappointed. His salary and allowances shall be borne by the United Nations.

2. The Governor may authorize a person selected by him to act for him in the event of his temporary absence or temporary inability to perform his duties.

3. The Security Council, if it considers that the Governor has failed to carry out his duties, may suspend him and, under appropriate safeguards of investigation and hearing, dismiss him from his office. In the event of his suspension or dismissal or in the event of his death or disability the Security Council may designate or appoint another person to act as Provisional Governor until the Governor recovers from his disability or a new Governor is appointed.

ARTICLE 12. *Legislative Authority*.—The legislative authority shall be exercised by a popular Assembly consisting of a single chamber elected on the basis of proportional representation, by the citizens of both sexes of the Free Territory. The elections for the Assembly shall be conducted on the basis of universal, equal, direct and secret suffrage.

ARTICLE 13. *Council of Government*.—1. Subject to the responsibilities vested in the Governor under the present Statute, executive authority in the Free Territory shall be exercised by a Council of Government which will be formed by the popular Assembly and will be responsible to the Assembly.

2. The Governor shall have the right to be present at all meetings of the Council of Government. He may express his views on all questions affecting his responsibilities.

3. When matters affecting their responsibilities are discussed by the Council of Government, the Director of Public Security and the Director of the Free Port shall be invited to attend meetings of the Council and to express their views.

ARTICLE 14. *Exercise of Judicial Authority*.—The judicial authority in the Free Territory shall be exercised by tribunals established pursuant to the Constitution and laws of the Free Territory.

ARTICLE 15. *Freedom and Independence of Judiciary*.—The Constitution of the Free Territory shall

guarantee the complete freedom and independence of the Judiciary and shall provide for appellate jurisdiction.

ARTICLE 16. *Appointment of Judiciary.*—1. The Governor shall appoint the Judiciary from among candidates proposed by the Council of Government or from among other persons, after consultation with the Council of Government, unless the Constitution provides for a different manner for filling judicial posts; and, subject to safeguards to be established by the Constitution, may remove members of the Judiciary for conduct incompatible with their judicial office.

2. The popular Assembly, by a two-thirds majority of votes cast, may request the Governor to investigate any charge brought against a member of the Judiciary which, if proved, would warrant his suspension or removal.

ARTICLE 17. *Responsibility of the Governor to the Security Council.*—1. The Governor, as the representative of the Security Council, shall be responsible for supervising the observance of the present Statute including the protection of the basic human rights of the inhabitants and for ensuring that public order and security are maintained by the Government of the Free Territory in accordance with the present Statute, the Constitution and laws of the Free Territory.

2. The Governor shall present to the Security Council annual reports concerning the operation of the Statute and the performance of his duties.

ARTICLE 18. *Rights of the Assembly.*—The popular Assembly shall have the right to consider and discuss any matters affecting the interests of the Free Territory.

ARTICLE 19. *Enactment of Legislation.*—1. Legislation may be initiated by members of the popular

Assembly and by the Council of Government as well as by the Governor in matters which in his view affect the responsibilities of the Security Council as defined in Article 2 of the present Statute.

2. No law shall enter into force until it shall have been promulgated. The promulgation of laws shall take place in accordance with the provisions of the Constitution of the Free Territory.

3. Before being promulgated legislation enacted by the Assembly shall be presented to the Governor.

4. If the Governor considers that such legislation is in contradiction to the present Statute, he may, within ten days following presentation of such legislation to him, return it to the Assembly with his comments and recommendations. If the Governor does not return the legislation within such ten days or if he advises the Assembly within such period that it calls for no comments or recommendation on his part, the legislation shall be promulgated forthwith.

5. If the Assembly makes manifest its refusal to withdraw legislation returned to the Assembly by the Governor or to amend it in conformity with his comments or recommendations, the Governor shall, unless he is prepared to withdraw his comments or recommendations, in which case the law shall be promulgated forthwith, immediately report the matter to the Security Council. The Governor shall likewise transmit without delay to the Security Council any communication which the Assembly may wish to make to the Council on the matter.

6. Legislation which forms the subject of a report to the Security Council under the provisions of the preceding paragraph shall only be promulgated by the direction of the Security Council.

ARTICLE 20. *Rights of the Governor with Respect to Administrative Measures.*—1. The Governor may require the Council of Government to suspend ad-

ministrative measures which in his view conflict with his responsibilities as defined in the present Statute (observance of the Statute; maintenance of public order and security; respect for human rights). Should the Council of Government object, the Governor may suspend these administrative measures and the Governor or the Council of Government may refer the whole question to the Security Council for decision.

2. In matters affecting his responsibilities as defined in the Statute the Governor may propose to the Council of Government the adoption of any administrative measures. Should the Council of Government not accept such proposals the Governor may, without prejudice to Article 22 of the present Statute, refer the matter to the Security Council for decision.

ARTICLE 21. *Budget*.—1. The Council of Government shall be responsible for the preparation of the budget of the Free Territory, including both revenue and expenditure, and for its submission to the popular Assembly.

2. If the Assembly should fail to vote the budget within the proper time limit, the provisions of the budget for the preceding period shall be applied to the new budgetary period until such time as the new budget shall have been voted.

ARTICLE 22. *Special Powers of the Governor*.—1. In order that he may carry out his responsibilities to the Security Council under the present Statute, the Governor may, in cases which in his opinion permit of no delay, threatening the independence or integrity of the Free Territory, public order or respect of human rights, directly order and require the execution of appropriate measures subject to an immediate report thereon being made by him to the Security Council. In such circumstances the Governor may himself assume, if he deems it necessary, control of the security services.

2. The popular Assembly may petition the Security Council concerning any exercise by the Governor of his powers under paragraph 1 of this Article.

ARTICLE 23. *Power of Pardon and Reprieve.*—The power of pardon and reprieve shall be vested in the Governor and shall be exercised by him in accordance with provisions to be laid down in the Constitution.

ARTICLE 24. *Foreign Relations.*—1. The Governor shall ensure that the foreign relations of the Free Territory shall be conducted in conformity with the Statute, Constitution, and laws of the Free Territory. To this end the Governor shall have authority to prevent the entry into force of treaties or agreements affecting foreign relations which, in his judgment, conflict with the Statute, Constitution or laws of the Free Territory.

2. Treaties and agreements, as well as exequaturs and consular commissions, shall be signed jointly by the Governor and a representative of the Council of Government.

3. The Free Territory may be or become a party to international conventions or become a member of international organizations provided the aim of such conventions or organizations is to settle economic, technical, cultural, social or health questions.

4. Economic union or associations of an exclusive character with any State are incompatible with the status of the Free Territory.

5. The Free Territory of Trieste shall recognize the full force of the Treaty of Peace with Italy, and shall give effect to the applicable provisions of that Treaty. The Free Territory shall also recognize the full force of the other agreements or arrangements which have been or will be reached by the Allied and Associated Powers for the restoration of peace.

ARTICLE 25. *Independence of the Governor and Staff.*—In the performance of their duties, the Gov-

ernor and his staff shall not seek or receive instructions from any Government or from any other authority except the Security Council. They shall refrain from any act which might reflect on their position as international officials responsible only to the Security Council.

ARTICLE 26. *Appointment and Removal of Administrative Officials.*—1. Appointments to public office in the Free Territory shall be made exclusively on the ground of ability, competence and integrity.

2. Administrative officials shall not be removed from office except for incompetence or misconduct and such removal shall be subject to appropriate safeguards of investigation and hearing to be established by law.

ARTICLE 27. *Director of Public Security.*—1. The Council of Government shall submit to the Governor a list of candidates for the post of Director of Public Security. The Governor shall appoint the Director from among the candidates presented to him, or from among other persons, after consultation with the Council of Government. He may also dismiss the Director of Public Security after consultation with the Council of Government.

2. The Director of Public Security shall not be a citizen of Yugoslavia or Italy.

3. The Director of Public Security shall normally be under the immediate authority of the Council of Government from which he will receive instructions on matters within his competence.

4. The Governor shall:

(a) receive regular reports from the Director of Public Security, and consult with him on any matters coming within the competence of the Director.

(b) be informed by the Council of Government of its instructions to the Director of Public Security and may express his opinion thereon.

ARTICLE 28. *Police Force*.—1. In order to preserve public order and security in accordance with the Statute, the Constitution and the laws of the Free Territory, the Government of the Free Territory shall be empowered to maintain a police force and security services.

2. Members of the police force and security services shall be recruited by the Director of Public Security and shall be subject to dismissal by him.

ARTICLE 29. *Local Government*.—The Constitution of the Free Territory shall provide for the establishment on the basis of proportional representation of organs of local government on democratic principles, including universal, equal, direct and secret suffrage.

ARTICLE 30. *Monetary System*.—The Free Territory shall have its own monetary system.

ARTICLE 31. *Railways*.—Without prejudice to its proprietary rights over the railways within its boundaries and its control of the railway administration, the Free Territory may negotiate with Yugoslavia and Italy agreements for the purpose of ensuring the efficient and economical operation of its railways. Such agreements would determine where responsibility lies for the operation of the railways in the direction of Yugoslavia or Italy respectively and also for the operation of the railway terminal of Trieste and of that part of the line which is common to all. In the latter case such operation may be effected by a special commission comprised of representatives of the Free Territory, Yugoslavia and Italy under the chairmanship of the representative of the Free Territory.

ARTICLE 32. *Commercial Aviation*.—1. Commercial aircraft registered in the territory of any one of the United Nations which grants on its territory the same rights to commercial aircraft registered in the Free Territory, shall be granted international com-

mercial aviation rights, including the right to land for refueling and repairs, to fly over the Free Territory without landing and to use for traffic purposes such airports as may be designated by the competent authorities of the Free Territory.

2. These rights shall not be subject to any restrictions other than those imposed on a basis of non-discrimination by the laws and regulations in force in the Free Territory and in the countries concerned or resulting from the special character of the Free Territory as neutral and demilitarized.

ARTICLE 33. *Registration of Vessels.*—1. The Free Territory is entitled to open registers for the registration of ships and vessels owned by the Government of the Free Territory or by persons or organizations domiciled within the Free Territory.

2. The Free Territory shall open special maritime registers for Czechoslovak and Swiss ships and vessels upon request of the Governments, as well as for Hungarian and Austrian ships and vessels upon the request of these Governments after the conclusion of the Treaty of Peace with Hungary and the treaty for the reestablishment of the independence of Austria respectively. Ships and vessels entered in these registers shall fly the flags of their respective countries.

3. In giving effect to the foregoing provisions, and subject to any international convention which may be entered into concerning these questions, with the participation of the Government of the Free Territory, the latter shall be entitled to impose such conditions governing the registration, retention on and removal from the registers as shall prevent any abuses arising from the facilities thus granted. In particular as regards ships and vessels registered under paragraph 1 above, registration shall be limited to ships and vessels controlled from the Free

Territory and regularly serving the needs or the interests of the Free Territory. In the case of ships and vessels registered under paragraph 2 above, registration shall be limited to ships and vessels based on the Port of Trieste and regularly and permanently serving the needs of their respective countries through the Port of Trieste.

ARTICLE 34. *Free Port*.—A free port shall be established in the Free Territory and shall be administered on the basis of the provisions of an international instrument drawn up by the Council of Foreign Ministers, approved by the Security Council, and annexed to the present Treaty (Annex VIII). The Government of the Free Territory shall enact all necessary legislation and take all necessary steps to give effect to the provisions of such instrument.

ARTICLE 35. *Freedom of Transit*.—Freedom of transit shall, in accordance with customary international agreements, be assured by the Free Territory and the States whose territories are traversed to goods transported by railroad between the Free Port and the States which it serves, without any discrimination and without customs duties or charges other than those levied for services rendered.

ARTICLE 36. *Interpretation of Statute*.—Except where another procedure is specifically provided under any Article of the present Statute, any dispute relating to the interpretation or execution of the Statute, not resolved by direct negotiations, shall, unless the parties mutually agree upon another means of settlement, be referred at the request of either party to the dispute to a Commission composed of one representative of each party and a third member selected by mutual agreement of the two parties from nationals of a third country. Should the two parties fail to agree within a period of one month upon the appointment of the third member,

the Secretary-General of the United Nations may be requested by either party to make the appointment. The decision of the majority of the members of the Commission shall be the decision of the Commission, and shall be accepted by the parties as definitive and binding.

ARTICLE 37. *Amendment of Statute*.—This Statute shall constitute the permanent Statute of the Free Territory, subject to any amendment which may hereafter be made by the Security Council. Petitions for the amendment of the Statute may be presented to the Security Council by the popular Assembly upon a vote taken by a two-thirds majority of the votes cast.

ARTICLE 38. *Coming into Force of Statute*.—The present Statute shall come into force on a date which shall be determined by the Security Council of the United Nations Organisation.

ANNEX VII. INSTRUMENT FOR THE PROVISIONAL REGIME OF THE FREE TERRITORY OF TRIESTE

(See Article 21)

The present provisions shall apply to the administration of the Free Territory of Trieste pending the coming into force of the Permanent Statute.

ARTICLE 1.—The Governor shall assume office in the Free Territory at the earliest possible moment after the coming into force of the present Treaty. Pending assumption of office by the Governor, the Free Territory shall continue to be administered by the Allied military commands within their respective zones.

ARTICLE 2.—On assuming office in the Free Territory of Trieste the Governor shall be empowered to select from among persons domiciled in the Free

Territory and after consultation with the Governments of Yugoslavia and Italy a Provisional Council of Government. The Governor shall have the right to make changes in the composition of the Provisional Council of Government whenever he deems it necessary. The Governor and the Provisional Council of Government shall exercise their functions in the manner laid down in the provisions of the Permanent Statute as and when these provisions prove to be applicable and in so far as they are not superseded by the present Instrument. Likewise all other provisions of the Permanent Statute shall be applicable during the period of the Provisional Regime as and when these provisions prove to be applicable and in so far as they are not superseded by the present Instrument. The Governor's actions will be guided mainly by the needs of the population and its well being.

ARTICLE 3.—The seat of Government will be established in Trieste. The Governor will address his reports directly to the Chairman of the Security Council and will, through that channel, supply the Security Council with all necessary information on the administration of the Free Territory.

ARTICLE 4.—The first concern of the Governor shall be to ensure the maintenance of public order and security. He shall appoint on a provisional basis a Director of Public Security, who will reorganize and administer the police force and security services.

ARTICLE 5.—(a) From the coming into force of the present Treaty, troops stationed in the Free Territory shall not exceed 5,000 men for the United Kingdom, 5,000 men for the United States of America and 5,000 men for Yugoslavia.

(b) These troops shall be placed at the disposal of the Governor for a period of 90 days after his assumption of office in the Free Territory. As from

the end of that period, they will cease to be at the disposal of the Governor and will be withdrawn from the Territory within a further period of 45 days, unless the Governor advises the Security Council that, in the interests of the Territory, some or all of them should not, in his view, be withdrawn. In the latter event, the troops required by the Governor shall remain until not later than 45 days after the Governor has advised the Security Council that the security services can maintain internal order in the Territory without the assistance of foreign troops.

(c) The withdrawal prescribed in paragraph (b) shall be carried out so as to maintain, in so far as possible, the ratio prescribed in paragraph (a) between the troops of the three Powers concerned.

ARTICLE 6.—The Governor shall have the right at any time to call upon the Commanders of such contingents for support and such support shall be given promptly. The Governor shall, whenever possible, consult with the Commanders concerned before issuing his instructions but shall not interfere with the military handling of the forces in the discharge of his instructions. Each Commander has the right to report to his Government the instructions which he has received from the Governor, informing the Governor of the contents of such reports. The Government concerned shall have the right to refuse the participation of its forces in the operation in question, informing the Security Council accordingly.

ARTICLE 7.—The necessary arrangements relating to the stationing, administration and supply of the military contingents made available by the United Kingdom, the United States of America, and Yugoslavia shall be settled by agreement between the Governor and the Commanders of those contingents.

ARTICLE 8.—The Governor, in consultation with the Provincial Council of Government, shall be

responsible for organizing the elections of Members of the Constituent Assembly in accordance with the conditions provided for in the Statute for elections to the popular Assembly.

The elections shall be held not later than four months after the Governor's assumption of office. In case this is technically impossible the Governor shall report to the Security Council.

ARTICLE 9.—The Governor will, in consultation with the Provisional Council of Government, prepare the provisional budget and the provisional export and import programmes and will satisfy himself that appropriate arrangements are made by the Provisional Council of Government for the administration of the finances of the Free Territory.

ARTICLE 10.—Existing laws and regulations shall remain valid unless and until revoked or suspended by the Governor. The Governor shall have the right to amend existing laws and regulations and to introduce new laws and regulations in agreement with the majority of the Provisional Council of Government. Such amended and new laws and regulations, as well as the acts of the Governor in regard to the revocation or suspension of laws and regulations, shall be valid unless and until they are amended, revoked or superseded by acts of the popular Assembly or the Council of Government within their respective spheres after the entry into force of the Constitution.

ARTICLE 11.—Pending the establishment of a separate currency regime for the Free Territory the Italian lira shall continue to be the legal tender within the Free Territory. The Italian Government shall supply the foreign exchange and currency needs of the Free Territory under conditions no less favorable than those applying in Italy.

Italy and the Free Territory shall enter into an agreement to give effect to the above provisions as well as to provide for any settlement between the two Governments which may be required.

ANNEX VIII. INSTRUMENT FOR THE FREE PORT OF TRIESTE

ARTICLE 1.—1. In order to ensure that the port and transit facilities of Trieste will be available for use on equal terms by all international trade and by Yugoslavia, Italy and the States of Central Europe, in such manner as is customary in other free ports of the world:

(a) There shall be a customs free port in the Free Territory of Trieste within the limits provided for by or established in accordance with Article 3 of the present Instrument.

(b) Goods passing through the Free Port of Trieste shall enjoy freedom of transit as stipulated in Article 16 of the present Instrument.

2. The international regime of the Free Port shall be governed by the provisions of the present Instrument.

ARTICLE 2.—1. The Free Port shall be established and administered as a State corporation of the Free Territory, having all the attributes of a juridical person and functioning in accordance with the provisions of this Instrument.

2. All Italian state and para-statal property within the limits of the Free Port which, according to the provisions of the present Treaty, shall pass to the Free Territory shall be transferred, without payment, to the Free Port.

ARTICLE 3.—1. The area of the Free Port shall include the territory and installations of the free zones of the port of Trieste within the limits of the 1939 boundaries.

2. The establishment of special zones in the Free Port under the exclusive jurisdiction of any State is incompatible with the status of the Free Territory and of the Free Port.

3. In order, however, to meet the special needs of Yugoslav and Italian shipping in the Adriatic, the Director of the Free Port, on the request of the Yugoslav or Italian Government and with the concurring advice of the International Commission provided for in Article 21 below, may reserve to merchant vessels flying the flags of either of these two States the exclusive use of berthing spaces within certain parts of the area of the Free Port.

4. In case it shall be necessary to increase the area of the Free Port such increase may be made upon the proposal of the Director of the Free Port by decision of the Council of Government with the approval of the popular Assembly.

ARTICLE 4.—Unless otherwise provided for by the present Instrument the laws and regulations in force in the Free Territory shall be applicable to persons and property within the boundaries of the Free Port and the authorities responsible for their application in the Free Territory shall exercise their functions within the limits of the Free Port.

ARTICLE 5.—1. Merchant vessels and goods of all countries shall be allowed unrestricted access to the Free Port for loading and discharge both for goods in transit and goods destined for or proceeding from the Free Territory.

2. In connection with importation into or exportation from or transit through the Free Port, the authorities of the Free Territory shall not levy on such goods customs duties or charges other than those levied for services rendered.

3. However, in respect of goods, imported through the Free Port for consumption within the Free Terri-

tory or exported from this Territory through the Free Port, appropriate legislation and regulations in force in the Free Territory shall be applied.

ARTICLE 6.—Warehousing, storing, examining, sorting, packing and repacking and similar activities which have customarily been carried on in the free zones of the port of Trieste shall be permitted in the Free Port under the general regulations established by the Director of the Free Port.

ARTICLE 7.—1. The Director of the Free Port may also permit the processing of goods in the Free Port.

2. Manufacturing activities in the Free Port shall be permitted to those enterprises which existed in the free zones of the port of Trieste before the coming into force of the present Instrument. Upon the proposal of the Director of the Free Port, the Council of Government may permit the establishment of new manufacturing enterprises within the limits of the Free Port.

ARTICLE 8.—Inspection by the authorities of the Free Territory shall be permitted within the Free Port to the extent necessary to enforce the customs or other regulations of the Free Territory for the prevention of smuggling.

ARTICLE 9.—1. The authorities of the Free Territory will be entitled to fix and levy harbour dues in the Free Port.

2. The Director of the Free Port shall fix all charges for the use of the facilities and services of the Free Port. Such charges shall be reasonable and be related to the cost of operation, administration, maintenance and development of the Free Port.

ARTICLE 10.—In the fixing and levying in the Free Port of harbour dues and other charges under Article 9 above, as well as in the provision of the services and facilities of the Free Port, there shall be no discrimi-

nation in respect of the nationality of the vessels, the ownership of the goods or on any other grounds.

ARTICLE 11.—The passage of all persons into and out of the Free Port area shall be subject to such regulations as the authorities of the Free Territory shall establish. These regulations, however, shall be established in such a manner as not unduly to impede the passage into and out of the Free Port of nationals of any State who are engaged in any legitimate pursuit in the Free Port area.

ARTICLE 12.—The rules and by-laws operative in the Free Port and likewise the schedules of charges levied in the Free Port must be made public.

ARTICLE 13.—Coastwise shipping and coastwise trade within the Free Territory shall be carried on in accordance with regulations issued by the authorities of the Free Territory, the provisions of the present Instrument not being deemed to impose upon such authorities any restrictions in this respect.

ARTICLE 14.—Within the boundaries of the Free Port, measures for the protection of health and measures for combating animal and plant diseases in respect of vessels and cargoes shall be applied by the authorities of the Free Territory.

ARTICLE 15.—It shall be the duty of the authorities of the Free Territory to provide the Free Port with water supplies, gas, electric light and power communications, drainage facilities and other public services and also to ensure police and fire protection.

ARTICLE 16.—1. Freedom of transit shall, in accordance with customary international agreements, be assured by the Free Territory and the States whose territories are traversed to goods transported by railroad between the Free Port and the States which it serves, without any discrimination and without customs duties or charges other than those levied for services rendered.

2. The Free Territory and the States assuming the obligations of the present Instrument through whose territory such traffic passes in transit in either direction shall do all in their power to provide the best possible facilities in all respects for the speedy and efficient movement of such traffic at a reasonable cost, and shall not apply with respect to the movement of goods to and from the Free Port any discriminatory measures with respect to rates, services, customs, sanitary, police or any other regulations.

3. The States assuming the obligations of the present Instrument shall take no measures regarding regulations or rates which would artificially divert traffic from the Free Port for the benefit of other seaports. Measures taken by the Government of Yugoslavia to provide for traffic to ports in southern Yugoslavia shall not be considered as measures designed to divert traffic artificially.

ARTICLE 17.—The Free Territory and the States assuming the obligations of the present Instrument shall, within their respective territories and on non-discriminatory terms, grant in accordance with customary international agreements freedom of postal, telegraphic, and telephonic communications between the Free Port area and any country for such communications as originate in or are destined for the Free Port area.

ARTICLE 18.—1. The administration of the Free Port shall be carried on by the Director of the Free Port who will represent it as a juridical person. The Council of Government shall submit to the Governor a list of qualified candidates for the post of Director of the Free Port. The Governor shall appoint the Director from among the candidates presented to him after consultation with the Council of Government. In case of disagreement the matter shall be referred to the Security Council. The Governor may

also dismiss the Director upon the recommendation of the International Commission or the Council of Government.

2. The Director shall not be a citizen of Yugoslavia or Italy.

3. All other employees of the Free Port will be appointed by the Director. In all appointments of employees preference shall be given to citizens of the Free Territory.

ARTICLE 19.—Subject to the provisions of the present Instrument, the Director of the Free Port shall take all reasonable and necessary measures for the administration, operation, maintenance and development of the Free Port as an efficient port adequate for the prompt handling of all the traffic of that port. In particular, the Director shall be responsible for the execution of all kinds of port works in the Free Port, shall direct the operation of port installations and other port equipment, shall establish, in accordance with legislation of the Free Territory, conditions of labour in the Free Port, and shall also supervise the execution in the Free Port of orders and regulations of the authorities of the Free Territory in respect to navigation.

ARTICLE 20.—1. The Director of the Free Port shall issue such rules and bye-laws as he considers necessary in the exercise of his functions as prescribed in the preceding Article.

2. The autonomous budget of the Free Port will be prepared by the Director, and will be approved and applied in accordance with legislation to be established by the popular Assembly of the Free Territory.

3. The Director of the Free Port shall submit an annual report on the operations of the Free Port to the Governor and the Council of Government of the

Free Territory. A copy of the report shall be transmitted to the International Commission.

ARTICLE 21.—1. There shall be established an International Commission of the Free Port, hereinafter called “the International Commission”, consisting of one representative from the Free Territory and from each of the following States: France, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the United States of America, the People’s Federal Republic of Yugoslavia, Italy, Czechoslovakia, Poland, Switzerland, Austria and Hungary, provided that such State has assumed the obligations of the present Instrument.

2. The representative of the Free Territory shall be the permanent Chairman of the International Commission. In the event of a tie in voting, the vote cast by the Chairman shall be decisive.

ARTICLE 22.—The International Commission shall have its seat in the Free Port. Its offices and activities shall be exempt from local jurisdiction. The members and officials of the International Commission shall enjoy in the Free Territory such privileges and immunities as are necessary for the independent exercise of their functions. The International Commission shall decide upon its own secretariat, procedure and budget. The common expenses of the International Commission shall be shared by member States in an equitable manner as agreed by them through the International Commission.

ARTICLE 23.—The International Commission shall have the right to investigate and consider all matters relating to the operation, use, and administration of the Free Port or to the technical aspects of transit between the Free Port and the States which it serves, including unification of handling procedures. The International Commission shall act either on its own

initiative or when such matters have been brought to its attention by any State or by the Free Territory or by the Director of the Free Port. The International Commission shall communicate its views or recommendations on such matters to the State or States concerned, or to the Free Territory, or to the Director of the Free Port. Such recommendations shall be considered and the necessary measures shall be taken. Should the Free Territory or the State or States concerned deem, however, that such measures would be inconsistent with the provisions of the present Instrument, the matter may at the request of the Free Territory or any interested State be dealt with as provided in Article 24 below.

ARTICLE 24.—Any dispute relating to the interpretation or execution of the present Instrument, not resolved by direct negotiations, shall, unless the parties mutually agree upon another means of settlement, be referred at the request of either party to the dispute to a Commission composed of one representative of each party and a third member selected by mutual agreement of the two parties from nationals of a third country. Should the two parties fail to agree within a period of one month upon the appointment of the third member, the Secretary-General of the United Nations may be requested by either party to make the appointment. The decision of the majority of the member of the Commission shall be the decision of the Commission, and shall be accepted by the parties as definitive and binding.

ARTICLE 25.—Proposals for amendments to the present Instrument may be submitted to the Security Council by the Council of Government of the Free Territory or by three or more States represented on the International Commission. An amendment ap-

proved by the Security Council shall enter into force on the date determined by the Security Council.

ARTICLE 26.—For the purposes of the present Instrument a State shall be considered as having assumed the obligations of this Instrument if it is a party to the Treaty of Peace with Italy or has notified the Government of the French Republic of its assumption of such obligations.

ANNEX XI. JOINT DECLARATION BY THE GOVERNMENTS OF THE SOVIET UNION, OF THE UNITED KINGDOM, OF THE UNITED STATES OF AMERICA AND OF FRANCE CONCERNING ITALIAN TERRITORIAL POSSESSIONS IN AFRICA

(See Article 23)

1. The Governments of the Union of Soviet Socialist Republics, of the United Kingdom of Great Britain and Northern Ireland, of the United States of America, and of France agree that they will, within one year from the coming into force of the Treaty of Peace with Italy bearing the date of February 10, 1947, jointly determine the final disposal of Italy's territorial possessions in Africa, to which, in accordance with Article 23 of the Treaty, Italy renounces all right and title.

2. The final disposal of the territories concerned and the appropriate adjustment of their boundaries shall be made by the Four Powers in the light of the wishes and welfare of the inhabitants and the interests of peace and security, taking into consideration the views of other interested Governments.

3. If with respect to any of these territories the Four Powers are unable to agree upon their disposal within one year from the coming into force of the

Treaty of Peace with Italy, the matter shall be referred to the General Assembly of the United Nations for a recommendation, and the Four Powers agree to accept the recommendation and to take appropriate measures for giving effect to it.

4. The Deputies of the Foreign Ministers shall continue the consideration of the question of the disposal of the former Italian Colonies with a view to submitting to the Council of Foreign Ministers their recommendations on this matter. They shall also send out commissions of investigation to any of the former Italian Colonies in order to supply the Deputies with the necessary data on this question and to ascertain the views of the local population.

ANNEX XIII. DEFINITIONS

A. NAVAL

(See Article 59)

Standard Displacement.—The standard displacement of a surface vessel is the displacement of the vessel, complete, fully manned, engined and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board.

The standard displacement is expressed in tons of 2,240 lbs. (1,016 Kgs).

War Vessel.—A war vessel, whatever its displacement, is:

1. A vessel specifically built or adapted as a fighting unit for naval, amphibious or naval air warfare; or

2. A vessel which has one of the following characteristics:

(a) mounts a gun with a calibre exceeding 4.7 inches (120 mm.);

(b) mounts more than four guns with a calibre exceeding 3 inches (76 mm.);

(c) is designed or fitted to launch torpedoes or to lay mines;

(d) is designed or fitted to launch self-propelled or guided missiles;

(e) is designed for protection by armour plating exceeding 1 inch (25 mm.) in thickness;

(f) is designed or adapted primarily for operating aircraft at sea;

(g) mounts more than two aircraft launching apparatus;

(h) is designed for a speed greater than twenty knots if fitted with a gun of calibre exceeding 3 inches (76 mm.).

A war vessel belonging to sub-category 1 is no longer to be considered as such after the twentieth year since completion if all weapons are removed.

Battleship.—A battleship is a war vessel, other than an aircraft carrier, the standard displacement of which exceeds 10,000 tons or which carries a gun with a calibre exceeding 8 inches (203 mm.).

Aircraft Carrier.—An aircraft carrier is a war vessel, whatever her displacement, designed or adapted primarily for the purpose of carrying and operating aircraft.

Submarine.—A submarine is a vessel designed to operate below the surface of the sea.

Specialised Types of Assault Craft.—1. All types of craft specially designed or adapted for amphibious operations.

2. All types of small craft specially designed or adapted to carry an explosive or incendiary charge for attacks on ships or harbours.

Motor Torpedo Boat.—A vessel of a displacement less than 200 tons, capable of a speed of over 25 knots and of operating torpedoes.

B. MILITARY, MILITARY AIR AND NAVAL TRAINING

(See Articles 60, 63 and 65)

1. Military training is defined as: the study of and practice in the use of war material specially designed or adapted for army purposes, and training devices relative thereto; the study and carrying out of all drill or movements which teach or practice evolutions performed by fighting forces in battle; and the organised study of tactics, strategy and staff work.

2. Military air training is defined as: the study of and practice in the use of war material specially designed or adapted for air force purposes, and training devices relative thereto; the study and practice of all specialised evolutions, including formation flying, performed by aircraft in the accomplishment of an air force mission; and the organised study of air tactics, strategy and staff work.

3. Naval training is defined as: the study, administration or practice in the use of warships or naval establishments as well as the study or employment of all apparatus and training devices relative thereto, which are used in the prosecution of naval warfare, except for those which are also normally used for civilian purposes; also the teaching, practice or organised study of naval tactics, strategy and staff work including the execution of all operations and manoeuvres not required in the peaceful employment of ships.

C. DEFINITION AND LIST OF WAR MATERIAL

(See Article 67)

The term "war material" as used in the present Treaty shall include all arms, ammunition and implements specially designed or adapted for use in war as listed below.

The Allied and Associated Powers reserve the right to amend the list periodically by modification or addition in the light of subsequent scientific development.

CATEGORY I.—1. Military rifles, carbines, revolvers and pistols; barrels for these weapons and other spare parts not readily adaptable for civilian use.

2. Machine guns, military automatic or auto-loading rifles, and machine pistols; barrels for these weapons and other spare parts not readily adaptable for civilian use; machine gun mounts.

3. Guns, howitzers, mortars, cannon special to aircraft, breechless or recoil-less guns and flame-throwers; barrels and other spare parts not readily adaptable for civilian use; carriages and mountings for the foregoing.

4. Rocket projectors; launching and control mechanisms for self-propelling and guided missiles; mountings for same.

5. Self-propelling and guided missiles, projectiles, rockets, fixed ammunition and cartridges, filled or unfilled, for the arms listed in subparagraphs 1-4 above and fuses, tubes or contrivances to explode or operate them. Fuses required for civilian use are not included.

6. Grenades, bombs, torpedoes, mines, depth charges and incendiary materials or charges, filled or unfilled; all means for exploding or operating them. Fuses required for civilian use are not included.

7. Bayonets.

CATEGORY II.—1. Armoured fighting vehicles; armoured trains, not technically convertible to civilian use.

2. Mechanical and self-propelled carriages for any of the weapons listed in Category I; special type military chassis or bodies other than those enumerated in sub-paragraph 1 above.

3. Armour plate, greater than three inches in thickness, used for protective purposes in warfare.

CATEGORY III.—1. Aiming and computing devices, including predictors and plotting apparatus, for fire control; direction of fire instruments; gun sights; bomb sights; fuse setters; equipment for the calibration of guns and fire control instruments.

2. Assault bridging, assault boats and storm boats.

3. Deceptive warfare, dazzle and decoy devices.

4. Personal war equipment of a specialised nature not readily adaptable to civilian use.

CATEGORY IV.—1. Warships of all kinds, including converted vessels and craft designed or intended for their attendance or support, which cannot be technically reconverted to civilian use, as well as weapons, armour, ammunition, aircraft and all other equipment, material, machines and installations not used in peace time on ships other than warships.

2. Landing craft and amphibious vehicles or equipment of any kind; assault boats or devices of any type as well as catapults or other apparatus for launching or throwing aircraft, rockets, propelled weapons or any other missile, instrument or device whether manned or unmanned, guided or uncontrolled.

3. Submersible or semi-submersible ships, craft, weapons, devices, or apparatus of any kind, includ-

ing specially designed harbour defence booms, except as required by salvage, rescue or other civilian uses, as well as all equipment, accessories, spare parts, experimental or training aids, instruments or installations as may be specially designed for the construction, testing, maintenance or housing of the same.

CATEGORY V.—1. Aircraft, assembled or unassembled, both heavier and lighter than air, which are designed or adapted for aerial combat by the use of machine guns, rocket projectors or artillery, or for the carrying and dropping of bombs, or which are equipped with, or which by reason of their design or construction are prepared for, any of the appliances referred to in sub-paragraph 2 below.

2. Aerial gun mounts and frames, bomb racks, torpedo carriers and bomb release or torpedo release mechanisms; gun turrets and blisters.

3. Equipment specially designed for and used solely by airborne troops.

4. Catapults or launching apparatus for shipborne, land- or sea-based aircraft; apparatus for launching aircraft weapons.

5. Barrage balloons.

CATEGORY VI.—Asphyxiating, lethal, toxic or incapacitating substances intended for war purposes, or manufactured in excess of civilian requirements.

CATEGORY VII.—Propellants, explosives, pyrotechnics or liquefied gases destined for the propulsion, explosion, charging or filling of, or for use in connection with, the war material in the present categories, not capable of civilian use or manufactured in excess of civilian requirements.

CATEGORY VIII.—Factory and tool equipment specially designed for the production and maintenance of the material enumerated above and not technically convertible to civilian use.

D. DEFINITION OF THE TERMS "DEMILITARISATION" AND "DEMILITARISED"

(See Articles 11, 14, 49 and Article 3 of Annex VI)

For the purpose of the present Treaty the terms "demilitarisation" and "demilitarised" shall be deemed to prohibit, in the territory and territorial waters concerned, all naval, military and military air installations, fortifications and their armaments; artificial military, naval and air obstacles; the basing or the permanent or temporary stationing of military, naval and military air units; military training in any form; and the production of war material. This does not prohibit internal security personnel restricted in number to meeting tasks of an internal character and equipped with weapons which can be carried and operated by one person, and the necessary military training of such personnel.

ANNEX XIV. ECONOMIC AND FINANCIAL PROVISIONS RELATING TO CEDED TER- RITORIES

1. The Successor State shall receive, without payment, Italian State and para-statal property within territory ceded to it under the present Treaty, as well as all relevant archives and documents of an administrative character or historical value concerning the territory in question, or related to property transferred under this paragraph.

The following are considered as State or para-statal property for the purposes of this Annex: movable and immovable property of the Italian State, of local authorities and of public institutions and publicly owned companies and associations, as well as movable and immovable property formerly belonging to the Fascist Party or its auxiliary organizations.

2. All transfers effected after September 3, 1943, of Italian State and para-statal property as defined in paragraph 1 above shall be deemed null and void. This provision shall not, however, extend to lawful acts relating to current operations of State and para-statal agencies in so far as they concern the sale, within normal limits, of goods ordinarily produced or sold by them in the execution of normal commercial arrangements or in the normal course of governmental administrative activities.

3. Italian submarine cables connecting points in ceded territory, or connecting a point in ceded territory with a point in other territory of the Successor State, shall be deemed to be Italian property in the ceded territory, despite the fact that lengths of these cables may lie outside territorial waters. Italian submarine cables connecting a point in ceded territory with a point outside the jurisdiction of the Successor State shall be deemed to be Italian property in ceded territory so far as concerns the terminal facilities and the lengths of cables lying within territorial waters of the ceded territory.

4. The Italian Government shall transfer to the Successor State all objects of artistic, historical or archaeological value belonging to the cultural heritage of the ceded territory, which, while that territory was under Italian control, were removed therefrom without payment and are held by the Italian Government or by Italian public institutions.

5. The Successor State shall make arrangements for the conversion into its own currency of Italian currency held within the ceded territory by persons continuing to reside in the said territory or by juridical persons continuing to carry on business there. Full proof of the source of the funds to be converted may be required from their holders.

6. The Government of the Successor State shall

be exempt from the payment of the Italian public debt, but will assume the obligations of the Italian State towards holders who continue to reside in the ceded territory, or who, being juridical persons, retain their *siège social* or principal place of business there, in so far as these obligations correspond to that portion of this debt which has been issued prior to June 10, 1940, and is attributable to public works and civil administrative services of benefit to the said territory but not attributable directly or indirectly to military purposes.

Full proof of the source of such holdings may be required from the holders.

The Successor State and Italy shall conclude arrangements to determine the portion of the Italian public debt referred to in this paragraph and the methods for giving effect to these provisions.

7. Special arrangements shall be concluded between the Successor State and Italy to govern the conditions under which the obligations of Italian public or private social insurance organizations towards the inhabitants of the ceded territory, and a proportionate part of the reserves accumulated by the said organizations, shall be transferred to similar organizations in the Successor State.

Similar arrangements shall also be concluded between the Successor State and Italy to govern the obligations of public and private social insurance organizations whose *siège social* is in the ceded territory, with regard to policy holders or subscribers residing in Italy.

8. Italy shall continue to be liable for the payment of civil or military pensions earned, as of the coming into force of the present Treaty, for service under the Italian State, municipal or other local government authorities, by persons who under the Treaty acquire the nationality of the Successor State, including

pension rights not yet matured. Arrangements shall be concluded between the Successor State and Italy providing for the method by which this liability shall be discharged.

9. The property, rights and interests of Italian nationals permanently resident in the ceded territories at the coming into force of the present Treaty shall, provided they have been lawfully acquired, be respected on a basis of equality with the rights of nationals of the Successor State.

The property, rights and interests within the ceded territories of other Italian nationals and also of Italian juridical persons, provided they have been lawfully acquired, shall be subject only to such legislation as may be enacted from time to time regarding the property of foreign nationals and juridical persons generally.

Such property, rights and interests shall not be subject to retention or liquidation under the provisions of Article 79 of the present Treaty, but shall be restored to their owners freed from any measures of this kind and from any other measure of transfer, compulsory administration or sequestration taken between September 3, 1943, and the coming into force of the present Treaty.

10. Persons who opt for Italian nationality and move to Italy shall be permitted, after the settlement of any debts or taxes due from them in ceded territory, to take with them their movable property and transfer their funds, provided such property and funds were lawfully acquired. No export or import duties will be imposed in connection with the moving of such property. Further, they shall be permitted to sell their movable and immovable property under the same conditions as nationals of the Successor State.

The removal of property to Italy will be effected

under conditions and within the limits agreed upon between the Successor State and Italy. The conditions and the time periods of the transfer of the funds, including the proceeds of sales, shall likewise be agreed.

11. The property, rights and interests of former Italian nationals, resident in the ceded territories, who become nationals of another State under the present Treaty, existing in Italy at the coming into force of the Treaty, shall be respected by Italy in the same measure as the property, rights and interests of United Nations nationals generally.

Such persons are authorized to effect the transfer and the liquidation of their property, rights and interests under the same conditions as may be established under paragraph 10 above.

12. Companies incorporated under Italian law and having *siège social* in the ceded territory, which wish to remove *siège social* to Italy, shall likewise be dealt with under the provisions of paragraph 10 above, provided that more than fifty per cent. of the capital of the company is owned by persons usually resident outside the ceded territory, or by persons who opt for Italian nationality under the present Treaty and who move to Italy, and provided also that the greater part of the activity of the company is carried on outside the ceded territory.

13. Debts owed by persons in Italy to persons in the ceded territory or by persons in the ceded territory to persons in Italy shall not be affected by the cession. Italy and the Successor State undertake to facilitate the settlement of such obligations. As used in this paragraph, the term "persons" includes juridical persons.

14. The property in ceded territory of any of the United Nations and its nationals, if not already freed from Italian measures of sequestration or con-

trol and returned to its owner, shall be returned in the condition in which it now exists.

15. The Italian Government recognizes that the Brioni Agreement of August 10, 1942, is null and void. It undertakes to participate with the other signatories of the Rome Agreement of May 29, 1923, in any negotiations having the purpose of introducing into its provisions the modifications necessary to ensure the equitable settlement of the annuities which it provides.

16. Italy shall return property unlawfully removed after September 3, 1943, from ceded territory to Italy. Paragraphs 2, 3, 4, 5 and 6 of Article 75 shall govern the application of this obligation except as regards property provided for elsewhere in this Annex.

17. Italy shall return to the Successor State in the shortest possible time any ships in Italian possession which were owned on September 3, 1943, by natural persons resident in ceded territory who acquire the nationality of the Successor State under the present Treaty, or by Italian juridical persons having and retaining *siège social* in ceded territory, except any ships which have been the subject of a bona fide sale.

18. Italy and the Successor States shall conclude agreements providing for a just and equitable apportionment of the property of any existing local authority whose area is divided by any frontier settlement under the present Treaty, and for a continuance to the inhabitants of necessary communal services not specifically covered in other parts of the Treaty.

Similar agreements shall be concluded for a just and equitable allocation of rolling stock and railway equipment and of dock and harbour craft and equipment, as well as for any other outstanding economic matters not covered by this Annex.

19. The provisions of this Annex shall not apply to the former Italian Colonies. The economic and

financial provisions to be applied therein will form part of the arrangements for the final disposal of these territories pursuant to Article 23 of the present Treaty.

ANNEX XV. SPECIAL PROVISIONS RELATING TO CERTAIN KINDS OF PROPERTY

A. INDUSTRIAL, LITERARY AND ARTISTIC PROPERTY

1. (a) A period of one year from the coming into force of the present Treaty shall be accorded to the Allied and Associated Powers and their nationals without extension fees or other penalty of any sort in order to enable them to accomplish all necessary acts for the obtaining or preserving in Italy of rights in industrial, literary and artistic property which were not capable of accomplishment owing to the existence of a state of war.

(b) Allied and Associated Powers or their nationals who had duly applied in the territory of any Allied or Associated Powers for a patent or registration of a utility model not earlier than twelve months before the outbreak of the war with Italy or during the war, or for the registration of an industrial design or model or trade mark not earlier than six months before the outbreak of the war with Italy or during the war, shall be entitled within twelve months after the coming into force of the present Treaty to apply for corresponding rights in Italy, with a right of priority based upon the previous filing of the application in the territory of that Allied or Associated Power.

(c) Each of the Allied and Associated Powers and its nationals shall be accorded a period of one year from the coming into force of the present Treaty during which they may institute proceedings in Italy against those natural or juridical persons who are alleged illegally to have infringed their rights in in-

dustrial, literary or artistic property between the date of the outbreak of the war and the coming into force of the present Treaty.

2. A period from the outbreak of the war until a date eighteen months after the coming into force of the present Treaty shall be excluded in determining the time within which a patent must be worked or a design or trade mark used.

3. The period from the outbreak of the war until the coming into force of the present Treaty shall be excluded from the normal term of rights in industrial, literary and artistic property which were in force in Italy at the outbreak of the war or which are recognised or established under part A of this Annex, and belong to any of the Allied and Associated Powers or their nationals. Consequently, the normal duration of such rights shall be deemed to be automatically extended in Italy for a further term corresponding to the period so excluded.

4. The foregoing provisions concerning the rights in Italy of the Allied and Associated Powers and their nationals shall apply equally to the rights in the territories of the Allied and Associated Powers of Italy and its nationals. Nothing, however, in these provisions shall entitle Italy or its nationals to more favourable treatment in the territory of any of the Allied and Associated Powers than is accorded by such Power in like cases to other United Nations or their nationals, nor shall Italy be required thereby to accord to any of the Allied and Associated Powers or its nationals more favourable treatment than Italy or its nationals receive in the territory of such Power in regard to the matters dealt with in the foregoing provisions.

5. Third parties in the territories of any of the Allied and Associated Powers or Italy who, before the coming into force of the present Treaty, had bona

bona fide acquired industrial, literary or artistic property rights conflicting with rights restored under part A of this Annex or with rights obtained with the priority provided thereunder, or had bona fide manufactured, published, reproduced, used or sold the subject matter of such rights, shall be permitted, without any liability for infringement, to continue to exercise such rights and to continue or to resume such manufacture, publication, reproduction, use or sale which had been bona fide acquired or commenced. In Italy, such permission shall take the form of a non-exclusive license granted on terms and conditions to be mutually agreed by the parties thereto or, in default of agreement, to be fixed by the Conciliation Commission established under Article 83 of the present Treaty. In the territories of each of the Allied and Associated Powers, however, bona fide third parties shall receive such protection as is accorded under similar circumstances to bona fide third parties whose rights are in conflict with those of the nationals of other Allied and Associated Powers.

6. Nothing in part A of this Annex shall be construed to entitle Italy or its nationals to any patent or utility model rights in the territory of any of the Allied and Associated Powers with respect to inventions, relating to any article listed by name in the definition of war material contained in Annex XIII of the present Treaty, made, or upon which applications were filed, by Italy, or any of its nationals, in Italy or in the territory of any other of the Axis Powers, or in any territory occupied by the Axis forces, during the time when such territory was under the control of the forces or authorities of the Axis Powers.

7. Italy shall likewise extend the benefits of the foregoing provisions of this Annex to United Nations, other than Allied or Associated Powers, whose

diplomatic relations with Italy have been broken off during the war and which undertake to extend to Italy the benefits accorded to Italy under the said provisions.

8. Nothing in part A of this Annex shall be understood to conflict with Articles 78, 79 and 81 of the present Treaty.

B. INSURANCE

1. No obstacles, other than any applicable to insurers generally, shall be placed in the way of the resumption by insurers who are United Nations nationals of their former portfolios of business.

2. Should an insurer, who is a national of any of the United Nations, wish to resume his professional activities in Italy, and should the value of the guarantee deposits or reserves required to be held as a condition of carrying on business in Italy be found to have decreased as a result of the loss or depreciation of the securities which constituted such deposits or reserves, the Italian Government undertakes to accept, for a period of eighteen months, such securities as still remain as fulfilling any legal requirements in respect of deposits and reserves.

ANNEX XVI. CONTRACTS, PRESCRIPTION AND NEGOTIABLE INSTRUMENTS

A. CONTRACTS

1. Any contract which required for its execution intercourse between any of the parties thereto having become enemies as defined in part D of this Annex, shall, subject to the exceptions set out in paragraphs 2 and 3 below, be deemed to have been dissolved as from the time when any of the parties thereto became enemies. Such dissolution, however, is without prejudice to the provisions of Article 81 of the

present Treaty, nor shall it relieve any party to the contract from the obligation to repay amounts received as advances or as payments on account and in respect of which such party has not rendered performance in return.

2. Notwithstanding the provisions of paragraph 1 above, there shall be excepted from dissolution and, without prejudice to the rights contained in Article 79 of the present Treaty, there shall remain in force such parts of any contract as are severable and did not require for their execution intercourse between any of the parties thereto, having become enemies as defined in part D of this Annex. Where the provisions of any contract are not so severable, the contract shall be deemed to have been dissolved in its entirety. The foregoing shall be subject to the application of domestic laws, orders or regulations made by any of the Allied and Associated Powers having jurisdiction over the contract or over any of the parties thereto and shall be subject to the terms of the contract.

3. Nothing in part A of this Annex shall be deemed to invalidate transactions lawfully carried out in accordance with a contract between enemies if they have been carried out with the authorization of the Government of one of the Allied and Associated Powers.

4. Notwithstanding the foregoing provisions, contracts of insurance and re-insurance shall be subject to separate agreements between the Government of the Allied or Associated Power concerned and the Government of Italy.

B. PERIODS OF PRESCRIPTION

1. All periods of prescription or limitation of right of action or of the right to take conservatory measures in respect of relations affecting persons or prop-

erty, involving United Nations nationals and Italian nationals who, by reason of the state of war, were unable to take judicial action or to comply with the formalities necessary to safeguard their rights irrespective of whether these periods commenced before or after the outbreak of war, shall be regarded as having been suspended, for the duration of the war, in Italian territory on the one hand, and on the other hand in the territory of those United Nations which grant to Italy, on a reciprocal basis, the benefit of the provisions of this paragraph. These periods shall begin to run again on the coming into force of the present Treaty. The provisions of this paragraph shall be applicable in regard to the periods fixed for the presentation of interest or dividend coupons or for the presentation for payment of securities drawn for repayment or repayable on any other ground.

2. Where, on account of failure to perform any act or to comply with any formality during the war, measures of execution have been taken in Italian territory to the prejudice of a national of one of the United Nations, the Italian Government shall restore the rights which have been detrimentally affected. If such restoration is impossible or would be inequitable, the Italian Government shall provide that the United Nations national shall be afforded such relief as may be just and equitable in the circumstances.

C. NEGOTIABLE INSTRUMENTS

1. As between enemies, no negotiable instrument made before the war shall be deemed to have become invalid by reason only of failure within the required time to present the instrument for acceptance or payment, or to give notice of non-acceptance or non-payment to drawers or endorsers, or to protest

the instrument, nor by reason of failure to complete any formality during the war.

2. Where the period within which a negotiable instrument should have been presented for acceptance or for payment, or within which notice of non-acceptance or non-payment should have been given to the drawer or endorser, or within which the instrument should have been protested, has elapsed during the war, and the party who should have presented or protested the instrument or have given notice of non-acceptance or non-payment has failed to do so during the war, a period of not less than three months from the coming into force of the present Treaty shall be allowed within which presentation, notice of non-acceptance or non-payment, or protest may be made.

3. If a person has, either before or during the war incurred obligations under a negotiable instrument in consequence of an undertaking given to him by a person who has subsequently become an enemy, the latter shall remain liable to indemnify the former in respect of these obligations, notwithstanding the outbreak of war.

D. SPECIAL PROVISIONS

1. For the purposes of this Annex, natural or juridical persons shall be regarded as enemies from the date when trading between them shall have become unlawful under laws, orders or regulations to which such persons or the contracts were subject.

2. Having regard to the legal system of the United States of America, the provisions of this Annex shall not apply as between the United States of America and Italy.

ANNEX XVII. PRIZE COURTS AND JUDGMENTS

A. PRIZE COURTS

Each of the Allied and Associated Powers reserves the right to examine, according to a procedure to be established by it, all decisions and orders of the Italian Prize Courts in cases involving ownership rights of its nationals, and to recommend to the Italian Government that revision shall be undertaken of such of those decisions or orders as may not be in conformity with international law.

The Italian Government undertakes to supply copies of all documents comprising the records of these cases, including the decisions taken and orders issued, and to accept all recommendations made as a result of the examination of the said cases, and to give effect to such recommendations.

B. JUDGMENTS

The Italian Government shall take the necessary measures to enable nationals of any of the United Nations at any time within one year from the coming into force of the present Treaty to submit to the appropriate Italian authorities for review any judgment given by an Italian court between June 10, 1940, and the coming into force of the present Treaty in any proceeding in which the United Nations national was unable to make adequate presentation of his case either as plaintiff or defendant. The Italian Government shall provide that, where the United Nations national has suffered injury by reason of any such judgment, he shall be restored in the position in which he was before the judgment was given or shall be afforded such relief as may be just and equitable in the circumstances. The term "United Nations nationals" includes corporations or

associations organised or constituted under the laws of any of the United Nations.

In faith whereof the undersigned Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

Done in the city of Paris in the French, English, Russian and Italian languages this tenth day of February, One Thousand Nine Hundred Forty-Seven.

Here follow the signatures of the Plenipotentiaries of:

Union of Soviet Socialist Republics	Canada
United Kingdom of Great Britain and Northern Ireland	Czechoslovakia
	Ethiopia
	Greece
	India
United States of America	The Netherlands
China	New Zealand
France	Poland
Australia	Ukrainian Soviet Socialist Republic
Belgium	Union of South Africa
Byelorussian Soviet Socialist Republic	People's Federal Republic of Yugoslavia
Brazil	Italy

(2) Treaty of Peace Between the Allied and Associated Powers and Bulgaria, Paris, 10 February 1947*

(Department of State Publication 2743)

The Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Australia, the Byelorussian Soviet Socialist Republic, Czechoslovakia, Greece, India, New Zealand, the Ukrainian Soviet Socialist Republic, the Union of South Africa and the People's Federal Republic of Yugoslavia, as the States which

*The text consists of versions in the Russian, English, French and Bulgarian languages, of which the first two were declared to be "authentic."

are at war with Bulgaria and actively waged war against the European enemy states with substantial military forces, hereinafter referred to as "the Allied and Associated Powers," of the one part, and Bulgaria, of the other part;

Whereas Bulgaria, having become an ally of Hitlerite Germany and having participated on her side in the war against the Union of Soviet Socialist Republics, the United Kingdom, the United States of America and other United Nations, bears her share of responsibility for this war;

Whereas, however, Bulgaria, having ceased military operations against the United Nations, broke off relations with Germany, and, having concluded on October 28, 1944, an Armistice with the Governments of the Union of Soviet Socialist Republics, the United Kingdom and the United States of America, acting on behalf of all the United Nations at war with Bulgaria, took an active part in the war against Germany; and

Whereas the Allied and Associated Powers and Bulgaria are desirous of concluding a treaty of peace, which, conforming to the principles of justice, will settle questions still outstanding as a result of the events hereinbefore recited and form the basis of friendly relations between them, thereby enabling the Allied and Associated Powers to support Bulgaria's application to become a member of the United Nations and also to adhere to any Convention concluded under the auspices of the United Nations;

Have therefore agreed to declare the cessation of the state of war and for this purpose to conclude the present Treaty of Peace, and have accordingly appointed the undersigned Plenipotentiaries who, after presentation of their full powers, found in good and due form, have agreed on the following provisions:

PART I. FRONTIERS OF BULGARIA

ARTICLE 1.—The frontiers of Bulgaria, as shown on the map annexed to the present Treaty (Annex I), shall be those which existed on January 1, 1941.

PART II. POLITICAL CLAUSES

SECTION I

ARTICLE 2.¹— * * *

ARTICLE 3.—Bulgaria, which in accordance with the Armistice Agreement has taken measures to set free, irrespective of citizenship and nationality, all persons held in confinement on account of their activities in favour of, or because of their sympathies with, the United Nations or because of their racial origin, and to repeal discriminatory legislation and restrictions imposed thereunder, shall complete these measures and shall in future not take any measures or enact any laws which would be incompatible with the purposes set forth in this Article.

ARTICLE 4.—Bulgaria, which in accordance with the Armistice Agreement has taken measures for dissolving all organisations of a Fascist type on Bulgarian territory, whether political, military or paramilitary, as well as other organisations conducting propaganda hostile to the United Nations, shall not permit in future the existence and activities of organisations of that nature which have as their aim denial to the people of their democratic rights.

ARTICLE 5.²—* * *

¹ Substituting "Bulgaria" for "Italy," Article 2 corresponds to Article 15 of the Italian treaty.

² Substituting "Bulgaria" for "Italy," and in Paragraph 3 "Heads of the Diplomatic Missions in Sofia" for "Ambassadors in Rome," Article 5 corresponds to Article 45 of the Italian treaty, with the omission of France from the States listed.

SECTION II

ARTICLE 6.³—* * *

ARTICLE 7.—Bulgaria undertakes to accept any arrangements which have been or may be agreed for the liquidation of the League of Nations and the Permanent Court of International Justice.

ARTICLE 8.⁴—* * *PART III. MILITARY, NAVAL AND AIR
CLAUSES

SECTION I

ARTICLE 9.—The maintenance of land, sea and air armaments and fortifications shall be closely restricted to meeting tasks of an internal character and local defence of frontiers. In accordance with the foregoing, Bulgaria is authorised to have armed forces consisting of not more than:

(a) A land army, including frontier troops, with a total strength of 55,000 personnel;

(b) Anti-aircraft artillery with a strength of 1,800 personnel;

(c) A navy with a personnel strength of 3,500 and a total tonnage of 7,250 tons;

(d) An air force, including any naval air arm, of 90 aircraft, including reserves, of which not more than 70 may be combat types of aircraft, with a total personnel strength of 5,200. Bulgaria shall not possess or acquire any aircraft designed primarily as bombers with internal bomb-carrying facilities.

These strengths shall in each case include combat, service and overhead personnel.

ARTICLE 10.—The personnel of the Bulgarian Army, Navy and Air Force in excess of the respective

³ Similarly, Article 6 corresponds to Article 18 of the Italian treaty.

⁴ Similarly, Article 8 corresponds to Article 44 of the Italian treaty.

strengths permitted under Article 9 shall be disbanded within six months from the coming into force of the present Treaty.

ARTICLE 11.—Personnel not included in the Bulgarian Army, Navy or Air Force shall not receive any form of military training, naval training or military air training as defined in Annex II.

ARTICLE 12.—1. The following construction to the north of the Greco-Bulgarian frontier is prohibited: permanent fortifications where weapons capable of firing into Greek territory can be emplaced; permanent military installations capable of being used to conduct or direct fire into Greek territory; and permanent supply and storage facilities emplaced solely for the use of the said fortifications and installations.

2. This prohibition does not include other types of non-permanent fortifications or surface accommodations and installations which are designed to meet only requirements of an internal character and of local defence of the frontiers.

ARTICLE 13.—Bulgaria shall not possess, construct or experiment with any atomic weapon, any self-propelled or guided missiles or apparatus connected with their discharge (other than torpedoes and torpedo-launching gear comprising the normal armament of naval vessels permitted by the present Treaty), sea mines or torpedoes of non-contact types actuated by influence mechanisms, torpedoes capable of being manned, submarines or other submersible craft, motor torpedo boats, or specialised types of assault craft.

ARTICLE 14.—Bulgaria shall not retain, produce or otherwise acquire, or maintain facilities for the manufacture of, war material in excess of that required for the maintenance of the armed forces permitted under Article 9 of the present Treaty.

ARTICLE 15.—1. Excess war material of Allied

origin shall be placed at the disposal of the Allied or Associated Power concerned according to the instructions given by that Power. Excess Bulgarian war material shall be placed at the disposal of the Governments of the Soviet Union, the United Kingdom and the United States of America. Bulgaria shall renounce all rights to this material.

2. War material of German origin or design in excess of that required for the armed forces permitted under the present Treaty shall be placed at the disposal of the Three Governments. Bulgaria shall not acquire or manufacture any war material of German origin or design, or employ or train any technicians, including military and civil aviation personnel, who are or have been nationals of Germany.

3. Excess war material mentioned in paragraphs 1 and 2 of this Article shall be handed over or destroyed within one year from the coming into force of the present Treaty.

4. A definition and list of war material for the purposes of the present Treaty are contained in Annex III.

ARTICLE 16.—Bulgaria shall co-operate fully with the Allied and Associated Powers with a view to ensuring that Germany may not be able to take steps outside German territory towards rearmament.

ARTICLE 17.⁵—* * *

ARTICLE 18.⁶—* * *

SECTION II

ARTICLE 19.⁷—* * *

⁵ Substituting "Bulgaria" for "Italy," Article 17 corresponds to Article 70 of the Italian treaty.

⁶ Substituting "Bulgaria" for "Italy," Article 18 corresponds to Article 46 of the Italian treaty.

⁷ Substituting "Bulgaria" for "Italy," Article 19 corresponds to Article 71 of the Italian treaty.

PART IV. WITHDRAWAL OF ALLIED FORCES

ARTICLE 20.—1. All armed forces of the Allied and Associated Powers shall be withdrawn from Bulgaria as soon as possible and in any case not later than 90 days from the coming into force of the present Treaty.

2. All unused Bulgarian currency and all Bulgarian goods in possession of the Allied forces in Bulgaria, acquired pursuant to Article 15 of the Armistice Agreement, shall be returned to the Bulgarian Government within the same period of 90 days.

3. Bulgaria shall, however, provide, during the period between the coming into force of the present Treaty and the final withdrawal of Allied forces, all such supplies and facilities as may be specifically required for the forces of the Allied and Associated Powers which are being withdrawn, and due compensation shall be paid to the Bulgarian Government for such supplies and facilities.

PART V. REPARATION AND RESTITUTION

ARTICLE 21.—1. Losses caused to Yugoslavia and Greece by military operations and by the occupation by Bulgaria of the territory of those States shall be made good by Bulgaria to Yugoslavia and Greece, but, taking into consideration that Bulgaria has not only withdrawn from the war against the United Nations, but has declared and, in fact, waged war against Germany, the Parties agree that compensation for the above losses will be made by Bulgaria not in full but only in part, namely in the amount of \$70,000,000 payable in kind from the products of manufacturing and extractive industries and agriculture over eight years beginning from the coming into force of the present Treaty. The sum to be paid to

Greece shall amount to \$45,000,000 and the sum to be paid to Yugoslavia shall amount to \$25,000,000.

2. The quantities and categories of goods to be delivered shall be determined by agreements to be concluded by the Governments of Greece and Yugoslavia with the Government of Bulgaria. These agreements shall be communicated to the Heads of the Diplomatic Missions in Sofia of the Soviet Union, the United Kingdom and the United States of America.

3. The basis of calculation for the settlement provided in this Article will be the United States dollar at its gold parity on July 1, 1946, i.e. \$35 for one ounce of gold.

4. The basis of valuation of goods delivered under this Article shall be the 1938 international market prices in United States dollars, with an increase of fifteen per cent for industrial products and ten per cent for other products. The cost of transport to the Greek or Yugoslav frontier shall be chargeable to the Bulgarian Government.

ARTICLE 22.⁸— * * *

PART VI. ECONOMIC CLAUSES

ARTICLE 23.⁹— * * *

ARTICLE 24.—Bulgaria recognizes that the Soviet Union is entitled to all German assets in Bulgaria transferred to the Soviet Union by the Control

⁸ Substituting "Bulgaria" for "Italy," Article 22 corresponds to Article 75 of the Italian treaty with the omission of Paragraph 8 of the latter.

⁹ Substituting "Bulgaria" for "Italy," "April 24, 1941" for "June 10, 1940," and the date of the Bulgarian Armistice for that of the Italian Armistice, the text of Article 23 follows generally that of Article 78 of the Italian treaty, with the omission of Paragraph 7 and the last sentence of Paragraph 9 (c) of the latter. An additional clause in Paragraph 4 provides that "the Bulgarian Government shall accord to United Nations nationals the same treatment in the allocation of materials for the repair or rehabilitation of their property in Bulgaria and in the allocation of foreign exchange for the importation of such materials as applies to Bulgarian nationals."

Council for Germany and undertakes to take all necessary measures to facilitate such transfers.

ARTICLE 25.¹⁰— * * *

ARTICLE 26.¹¹— * * *

ARTICLE 27.¹²— * * *

ARTICLE 28.¹³— * * *

ARTICLE 29.¹⁴— * * *

ARTICLE 30.—Bulgaria shall facilitate as far as possible railway traffic in transit through its territory at reasonable rates and shall negotiate with neighboring States all reciprocal agreements necessary for this purpose.

ARTICLE 31.—1. Any disputes which may arise in connection with Articles 22 and 23 and Annexes IV, V and VI of the present Treaty shall be referred to a Conciliation Commission composed of an equal number of representatives of the United Nations Government concerned and of the Bulgarian Government. If agreement has not been reached within three months of the dispute having been referred to the Conciliation Commission, either Government may require the addition of a third member to the Commission, and failing agreement between the two Governments on the selection of this member, the Secretary-General of the United Nations may be requested by either party to make the appointment.

¹⁰ Substituting "Bulgaria" for "Italy" and "October 28, 1944" for "September 3, 1943," Article 25 corresponds to Article 79 of the Italian treaty, with the omission of paragraphs 5, 6 (f) and 6 (g) of the latter.

¹¹ Substituting "Bulgaria" for "Italy" and "October 28, 1944" for "September 3, 1943," Article 26 corresponds to Article 77 of the Italian treaty, with the omission of Paragraph 5 of the latter.

¹² Substituting "Bulgaria" for "Italy," Article 27 corresponds to Article 81 of the Italian treaty.

¹³ Substituting "Bulgaria" for "Italy" and "levas" for "lire," Article 28 corresponds to Article 76 of the Italian treaty with the omission of Paragraphs 4 and 6 of the latter.

¹⁴ Substituting "Bulgaria" for "Italy," Article 29 corresponds to Article 82 of the Italian treaty.

2. The decision of the majority of the members of the Commission shall be the decision of the Commission and shall be accepted by the parties as definitive and binding.

ARTICLE 32.—Articles 22, 23, 29 and Annex VI of the present Treaty shall apply to the Allied and Associated Powers and France and to those of the United Nations whose diplomatic relations with Bulgaria have been broken off during the war.

ARTICLE 33.—The provisions of Annexes IV, V and VI shall, as in the case of the other Annexes, have force and effect as integral parts of the present Treaty.

PART VII. CLAUSE RELATING TO THE DANUBE

ARTICLE 34.—Navigation on the Danube shall be free and open for the nationals, vessels of commerce, and goods of all States, on a footing of equality in regard to port and navigation charges and conditions for merchant shipping. The foregoing shall not apply to traffic between ports of the same State.

PART VIII. FINAL CLAUSES

ARTICLES 35–38.¹⁵—* * *

LIST OF ANNEXES ¹⁶

I. Map of Bulgarian Frontiers (*not reproduced here.*)

¹⁵ Articles 35 through 38 correspond substantially with Articles 86, 87, 88 and 90 of the Italian treaty, with the omission of France as a party and the substitution of the American, British and Soviet heads of mission in Sofia for the Four Ambassadors in Rome. Articles 37 and 38 further provide that the Treaty and all instruments of ratification or accession shall be deposited with the Government of the U. S. S. R.

¹⁶ Substituting "Bulgaria" for "Italy" and "April 24, 1941" for "June 10, 1940," Annex II corresponds to Part B of Annex XIII to the Italian treaty; Annex III to Part C of Annex XIII; Annex IV to Part A of Annex XV; Annex V to Annex XVI; and Annex VI to Part B of Annex XVII.

- II. Definition of Military, Military Air and Naval Training
- III. Definition and list of war material
- IV. Industrial, Literary and Artistic Property
- V. Contracts, Prescription and Negotiable Instruments
- VI. Judgments

In faith whereof the undersigned Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

Done in the city of Paris in the Russian, English, French and Bulgarian languages this tenth day of February, One Thousand Nine Hundred Forty-Seven.

Here follow the signatures of the Plenipotentiaries of:

Union of Soviet Socialist Republics	Greece
United Kingdom of Great Britain and Northern Ireland	India
United States of America	New Zealand
Australia	Ukrainian Soviet Socialist Republic
Byelorussian Soviet Socialist Republic	Union of South Africa
Czechoslovakia	People's Federal Republic of Yugoslavia
	Bulgaria

(3) Treaty of Peace Between the Allied and Associated Powers and Hungary, Paris, 10 February 1947*

(Department of State Publication 2743)

The Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Australia, the Byelorussian Soviet Socialist Republic, Canada, Czecho-

*The text consists of versions in the Russian, English, French and Hungarian languages, of which the first two were declared to be "authentic."

slovakia, India, New Zealand, the Ukrainian Soviet Socialist Republic, the Union of South Africa, and the People's Federal Republic of Yugoslavia, as the States which are at war with Hungary and actively waged war against the European enemy States with substantial military forces, hereinafter referred to as "the Allied and Associated Powers," of the one part, and Hungary, of the other part;

Whereas Hungary, having become an ally of Hitlerite Germany and having participated on her side in the war against the Union of Soviet Socialist Republics, the United Kingdom, the United States of America and other United Nations, bears her share of responsibility for this war;

Whereas, however, Hungary on December 28, 1944, broke off relations with Germany, declared war on Germany and on January 20, 1945, concluded an Armistice with the Governments of the Union of Soviet Socialist Republics, the United Kingdom and the United States of America, acting on behalf of all the United Nations which were at war with Hungary; and

Whereas the Allied and Associated Powers and Hungary are desirous of concluding a treaty of peace, which, conforming to the principles of justice, will settle questions still outstanding as a result of the events hereinbefore recited and form the basis of friendly relations between them, thereby enabling the Allied and Associated Powers to support Hungary's application to become a member of the United Nations and also to adhere to any Convention concluded under the auspices of the United Nations;

Have therefore agreed to declare the cessation of the state of war and for this purpose to conclude the present Treaty of Peace, and have accordingly appointed the undersigned Plenipotentiaries who, after

presentation of their full powers, found in good and due form, have agreed on the following provisions:

PART I. FRONTIERS OF HUNGARY

ARTICLE 1.—1. The frontiers of Hungary with Austria and with Yugoslavia shall remain those which existed on January 1, 1938.

2. The decisions of the Vienna Award of August 30, 1940, are declared null and void. The frontier between Hungary and Roumania as it existed on January 1, 1938, is hereby restored.

3. The frontier between Hungary and the Union of Soviet Socialist Republics, from the point common to the frontier of those two States and Roumania to the point common to the frontier of those two States and Czechoslovakia, is fixed along the former frontier between Hungary and Czechoslovakia as it existed on January 1, 1938.

4. (a) The decisions of the Vienna Award of November 2, 1938, are declared null and void.

(b) The frontier between Hungary and Czechoslovakia from the point common to the frontier of those two States and Austria to the point common to those two States and the Union of Soviet Socialist Republics is hereby restored as it existed on January 1, 1938, with the exception of the change resulting from the stipulations of the following sub-paragraph.

(c) Hungary shall cede to Czechoslovakia the villages of Horvathjarfalu, Oroszvar and Dunacsun, together with their cadastral territory as indicated on Map No. IA annexed to the present Treaty. Accordingly, the Czechoslovak frontier on this sector shall be fixed as follows: from the point common to the frontiers of Austria, Hungary and Czechoslovakia, as they existed on January 1, 1938, the present Hungarian-Austrian frontier shall become the frontier

between Austria and Czechoslovakia as far as a point roughly 500 meters south of hill 134 (3.5 kilometers northwest of the church of Rajka), this point now becoming common to the frontiers of the three named States; thence the new frontier between Czechoslovakia and Hungary shall go eastwards along the northern cadastral boundary of the village of Rajka to the right bank of the Danube at a point approximately 2 kilometers north of hill 128 (3.5 kilometers east of the church of Rajka), where the new frontier will, in the principal channel of navigation of the Danube, join the Czechoslovak-Hungarian frontier as it existed on January 1, 1938; the dam and spillway within the village limits of Rajka will remain on Hungarian territory.

(*d*) The exact line of the new frontier between Hungary and Czechoslovakia laid down in the preceding sub-paragraph shall be determined on the spot by a boundary Commission composed of the representatives of the two Governments concerned. The Commission shall complete its work within two months from the coming into force of the present Treaty.

(*e*) In the event of a bilateral agreement not being concluded between Hungary and Czechoslovakia concerning the transfer to Hungary of the population of the ceded area, Czechoslovakia guarantees them full human and civic rights. All the guarantees and prerogatives stipulated in the Czechoslovak-Hungarian Agreement of February 27, 1946, on the exchange of populations will be applicable to those who voluntarily leave the area ceded to Czechoslovakia.

5. The frontiers described above are shown on Maps I and IA in Annex I of the present Treaty.

PART II. POLITICAL CLAUSES

SECTION I

ARTICLE 2.—1. Hungary shall take all measures necessary to secure to all persons under Hungarian jurisdiction, without distinction as to race, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of expression, of press and publication, of religious worship, of political opinion and of public meeting.

2. Hungary further undertakes that the laws in force in Hungary shall not, either in their content or in their application, discriminate or entail any discrimination between persons of Hungarian nationality on the ground of their race, sex, language or religion, whether in reference to their persons, property, business, professional or financial interests, status, political or civil rights or any other matter.

ARTICLE 3.¹— * * *

ARTICLE 4.²— * * *

ARTICLE 5.—1. Hungary shall enter into negotiations with Czechoslovakia in order to solve the problem of those inhabitants of Magyar ethnic origin, residing in Czechoslovakia, who will not be settled in Hungary in accordance with the provisions of the Agreement of February 27, 1946, on exchange of populations.

2. Should no agreement be reached within a period of six months from the coming into force of the present Treaty, Czechoslovakia shall have the right to bring this question before the Council of Foreign Ministers and to request the assistance of the Council in effecting a final solution.

¹ Substituting "Hungary" for "Bulgaria," Article 3 corresponds to Article 3 of the Bulgarian treaty.

² Substituting "Hungary" for "Bulgaria," Article 4 corresponds to Article 4 of the Bulgarian treaty.

ARTICLE 6.³— * * *

SECTION II

ARTICLE 7.⁴—* * *

ARTICLE 8.—The state of war between Hungary and Roumania shall terminate upon the coming into force both of the present Treaty of Peace and the Treaty of Peace between the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Australia, the Byelorussian Soviet Socialist Republic, Canada, Czechoslovakia, India, New Zealand, the Ukrainian Soviet Socialist Republic and the Union of South Africa, of the one part, and Roumania of the other part.

ARTICLE 9.⁵—* * *ARTICLE 10.⁶—* * *

ARTICLE 11.—1. Hungary shall hand over to Yugoslavia and to Czechoslovakia, within a period of not more than eighteen months from the coming into force of the present Treaty, objects of the following categories constituting the cultural heritage of Yugoslavia and Czechoslovakia which originated in those territories and which, after 1848, came into the possession of the Hungarian State or of Hungarian public institutions as a consequence of Hungarian domination over these territories prior to 1919:

(a) Historical archives which came into being as integral wholes in Yugoslav or Czechoslovak territories;

³ Substituting "Hungary" for "Italy," and the American, British and Soviet heads of mission at Budapest for the Four Ambassadors in Rome, Article 6 corresponds to Article 45 of the Italian treaty.

⁴ Substituting "Hungary" for "Italy" and "Italy" for "Hungary," Article 7 corresponds to Article 18 of the Italian treaty.

⁵ Substituting "Hungary" for "Bulgaria," Article 9 corresponds to Article 7 of the Bulgarian treaty.

⁶ Substituting "Hungary" for "Italy," Article 10 corresponds to Article 44 of the Italian treaty.

(b) Libraries, historical documents, antiquities and other cultural objects which belonged to the institutions on Yugoslav or Czechoslovak territories or to historical personalities of the Yugoslav and Czechoslovak peoples;

(c) Original artistic, literary and scientific objects which are the work of Yugoslav or Czechoslovak artists, writers and scientists.

2. Objects acquired by purchase, gift or legacy and original works of Hungarians are excluded from the provisions of paragraph 1.

3. Hungary shall also hand over to Yugoslavia the archives of the Illyrian Deputation, the Illyrian Commission and Illyrian Chancellery, which relate to the 18th century.

4. The Hungarian Government shall, on the coming into force of the present Treaty, give the authorised representatives of Yugoslavia and Czechoslovakia all necessary assistance in finding these objects and making them available for examination. Thereafter, but no later than one year from the coming into force of the present Treaty, the Yugoslav and Czechoslovak Governments shall hand the Hungarian Government a list of the objects claimed under this Article. Should the Hungarian Government, within three months of the receipt of the list, raise objection to the inclusion therein of any objects, and should no agreement be reached between the Governments concerned within a further month, the dispute shall be settled in accordance with the provisions of Article 40 of the present Treaty.

PART III. MILITARY AND AIR CLAUSES

ARTICLE 12.—The maintenance of land and air armaments and fortifications shall be closely restricted to meeting tasks of an internal character and

local defence of frontiers. In accordance with the foregoing, Hungary is authorized to have armed forces consisting of not more than:

(a) A land army, including frontier troops, anti-aircraft and river flotilla personnel, with a total strength of 65,000 personnel;

(b) An air force of 90 aircraft, including reserves, of which not more than 70 may be combat types of aircraft, with a total personnel strength of 5,000. Hungary shall not possess or acquire any aircraft designed primarily as bombers with internal bomb-carrying facilities.

These strengths shall in each case include combat, service and overhead personnel.

ARTICLES 13–21.⁷—* * *

PART IV. WITHDRAWAL OF ALLIED FORCES

ARTICLE 22.—1. Upon the coming into force of the present Treaty, all Allied forces shall, within a period of 90 days, be withdrawn from Hungary, subject to the right of the Soviet Union to keep on Hungarian territory such armed forces as it may need for the maintenance of the lines of communication of the Soviet Army with the Soviet zone of occupation in Austria.

2. All unused Hungarian currency and all Hungarian goods in possession of the Allied forces in Hungary, acquired pursuant to Article 11 of the Armistice Agreement, shall be returned to the Hungarian Government within the same period of 90 days.

3. Hungary shall, however, make available such maintenance and facilities as may specifically be required for the maintenance of the lines of communication with the Soviet zone of occupation in

⁷ Substituting “Hungary” for “Bulgaria,” Articles 13 through 21 correspond to Articles 10–11 and 13–19 of the Bulgarian treaty.

Austria, for which due compensation will be made to the Hungarian Government.

PART V. REPARATION AND RESTITUTION

ARTICLE 23.—1. Losses caused to the Soviet Union, Czechoslovakia and Yugoslavia by military operations and by the occupation by Hungary of the territories of these States shall be made good by Hungary to the Soviet Union, Czechoslovakia and Yugoslavia, but, taking into consideration that Hungary has not only withdrawn from the war against the United Nations, but has also declared war on Germany, the Parties agree that compensation for the above losses will be made by Hungary not in full but only in part, namely in the amount of \$300,000,000 payable over eight years from January 20, 1945, in commodities (machine equipment, river craft, grain and other commodities), the sum to be paid to the Soviet Union to amount to \$200,000,000, and the sum to be paid to Czechoslovakia and Yugoslavia to amount to \$100,000,000.

2. The basis of calculation for the settlement provided in this Article will be the United States dollar at its gold parity on the day of the signing of the Armistice Agreement, i.e. \$35 for one ounce of gold.

ARTICLE 24.⁸— * * *

ARTICLE 25.—The annulment of the Vienna Award of November 2, 1938, as provided in Article 1, paragraph 4, of the present Treaty, shall entail the annulment of the agreements, as well as the legal consequences ensuing therefrom, relating to matters of finance and public and private insurance, conclud-

⁸ Substituting "Hungary" for "Italy," Article 24 corresponds to Article 75 of the Italian treaty, with the omission of Paragraph 8 of the latter.

ed between or on behalf of the two States concerned or between Czechoslovak and Hungarian juridical persons on the basis of the Vienna Award and in respect of the material handed over in accordance with the Protocol of May 22, 1940. This annulment shall not apply in any way to relations between physical persons. The details of the above-mentioned settlement shall be arranged by bilateral agreements between the Governments concerned, within a period of six months from the coming into force of the present Treaty.

PART VI. ECONOMIC CLAUSES

ARTICLE 26.⁹— * * *

ARTICLE 27.—1. Hungary undertakes that in all cases where the property, legal rights or interests in Hungary of persons under Hungarian jurisdiction have, since September 1, 1939, been the subject of measures of sequestration, confiscation or control on account of the racial origin or religion of such persons, the said property, legal rights and interests shall be restored together with their accessories or, if restoration is impossible, that fair compensation shall be made therefor.

2. All property, rights and interests in Hungary of persons, organisations or communities which, individually or as members of groups, were the object of racial, religious or other Fascist measures of persecution, and remaining heirless or unclaimed for

⁹ Substituting "Hungary" for "Bulgaria" and "September 1, 1939" for "April 24, 1941," and the date of the Hungarian Armistice for that of the Bulgarian Armistice, Article 26 follows generally, Article 23 of the Bulgarian treaty. An additional clause in Paragraph 3 invalidates involuntary transfers by Czechoslovak nationals after November 2, 1938, and an additional Paragraph 10 provides for Hungarian recognition of the nullity of the Brioni Agreement of August 10, 1942. Hungary is also made responsible for property damage in Northern Transylvania during the period of Hungarian authority in that territory.

six months after the coming into force of the present Treaty, shall be transferred by the Hungarian Government to organisations in Hungary representative of such persons, organisations or communities. The property transferred shall be used by such organisations for purposes of relief and rehabilitation of surviving members of such groups, organisations and communities in Hungary. Such transfer shall be effected within twelve months from the coming into force of the Treaty, and shall include property, rights and interests required to be restored under paragraph 1 of this Article.

ARTICLES 28-42.¹⁰—* * *

LIST OF ANNEXES ¹¹

- I. Maps of Hungarian Frontiers (*not reproduced here*)
- II. Definition of Military and Military Air Training
- III. Definition and list of war material
- IV. Special provisions relating to certain kinds of property:
 - A. Industrial, Literary and Artistic Property
 - B. Insurance
- V. Contracts, Prescription and Negotiable Instruments
- VI. Judgments

In faith whereof the undersigned Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

¹⁰ Substituting "Hungary" for "Bulgaria," "January 20, 1945" for "October 28, 1944," "Hungarian currency" for "levas," and "Budapest" for "Sofia," Articles 28-37 correspond to Articles 24-33 of the Bulgarian treaty; Part VII, Article 38, to Article 34; and Part VIII, Articles 39-42, to Articles 35-38.

¹¹ Substituting "Hungary" for "Italy" and "April 10, 1941" for "June 10, 1940," Annex II corresponds to Part B of Annex XIII to the Italian treaty, omitting Paragraph 3; Annex III corresponds to Part C of Annex XIII; Annex IV to Annex XV; Annex V to Annex XVI; and Annex V to Part B of Annex XVII.

Done in the city of Paris in the Russian, English, French and Hungarian languages this tenth day of February, One Thousand Nine Hundred Forty-Seven.

Here follow the signatures of the Plenipotentiaries of:

Union of Soviet Socialist Republics	Czechoslovakia
United Kingdom of Great Britain and Northern Ireland	India
United States of America	New Zealand
Australia	Ukrainian Soviet Socialist Republic
Byelorussian Soviet Socialist Republic	Union of South Africa
Canada	People's Federal Republic of Yugoslavia
	Hungary

(4) Treaty of Peace Between the Allied and Associated Powers and Roumania, Paris, 10 February 1947*

(Department of State Publication 2743)

The Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Australia, the Byelorussian Soviet Socialist Republic, Canada, Czechoslovakia, India, New Zealand, the Ukrainian Soviet Socialist Republic, and the Union of South Africa, as the States which are at war with Roumania and actively waged war against the European enemy states with substantial military forces, hereinafter referred to as "the Allied and Associated Powers," of the one part,
and Roumania, of the other part;

Whereas Roumania, having become an ally of Hitlerite Germany and having participated on her side in the war against the Union of Soviet Socialist

*The text consists of versions in the Russian, English, French and Roumanian languages, of which the first two were declared to be "authentic."

Republics, the United Kingdom, the United States of America, and other United Nations, bears her share of responsibility for this war;

Whereas, however, Roumania, on August 24, 1944, entirely ceased military operations against the Union of Soviet Socialist Republics, withdrew from the war against the United Nations, broke off relations with Germany and her satellites and having concluded on September 12, 1944, an Armistice with the Governments of the Union of Soviet Socialist Republics, the United Kingdom and the United States of America, acting in the interests of all the United Nations, took an active part in the war against Germany; and

Whereas the Allied and Associated Powers and Roumania are desirous of concluding a treaty of peace, which, conforming to the principles of justice, will settle questions still outstanding as a result of the events hereinbefore recited and form the basis of friendly relations between them, thereby enabling the Allied and Associated Powers to support Roumania's application to become a member of the United Nations and also to adhere to any Convention concluded under the auspices of the United Nations;

Have therefore agreed to declare the cessation of the state of war and for this purpose to conclude the present Treaty of Peace, and have accordingly appointed the undersigned Plenipotentiaries who, after presentation of their full powers, found in good and due form, have agreed on the following provisions:

PART I. FRONTIERS

ARTICLE 1.—The frontiers of Roumania, shown on the map annexed to the present Treaty (Annex I), shall be those which existed on January 1, 1941, with the exception of the Roumanian-Hungarian frontier, which is defined in Article 2 of the present Treaty.

The Soviet-Roumanian frontier is thus fixed in accordance with the Soviet-Roumanian Agreement of June 28, 1940, and the Soviet-Czechoslovak Agreement of June 29, 1945.

ARTICLE 2.—The decisions of the Vienna Award of August 30, 1940, are declared null and void. The frontier between Roumania and Hungary as it existed on January 1, 1938, is hereby restored.

PART II. POLITICAL CLAUSES

ARTICLES 3-10.¹— * * *

PART III. MILITARY, NAVAL AND AIR CLAUSES

ARTICLE 11.—The maintenance of land, sea and air armaments and fortifications shall be closely restricted to meeting tasks of an internal character and local defense of frontiers. In accordance with the foregoing, Roumania is authorised to have armed forces consisting of not more than:

(a) A land army, including frontier troops, with a total strength of 120,000 personnel;

(b) Anti-aircraft artillery with a strength of 5,000 personnel;

(c) A navy with a personnel strength of 5,000 and a total tonnage of 15,000 tons;

(d) An air force, including any naval air arm, of 150 aircraft, including reserves, of which not more than 100 may be combat types of aircraft, with a total personnel strength of 8,000. Roumania shall not possess or acquire any aircraft designed primarily as bombers with internal bomb-carrying facilities.

These strengths shall in each case include combat, service and overhead personnel.

¹ Substituting "Roumania" for "Hungary" and "Bucharest" for "Budapest," Part II, Articles 3-10, corresponds to Articles 2-4 and 6-10 of the Hungarian treaty.

ARTICLES 12-20.²— * * *

PART IV. WITHDRAWAL OF ALLIED FORCES

ARTICLE 21.³—* * *

PART V. REPARATION AND RESTITUTION

ARTICLE 22.—1. Losses caused to the Soviet Union by military operations and by the occupation by Roumania of Soviet territory shall be made good by Roumania to the Soviet Union, but, taking into consideration that Roumania has not only withdrawn from the war against the United Nations, but has declared and, in fact, waged war against Germany, it is agreed that compensation for the above losses will be made by Roumania not in full but only in part, namely in the amount of \$300,000,000 payable over eight years from September 12, 1944, in commodities (oil products, grain, timber, seagoing and river craft, sundry machinery and other commodities).

2. The basis of calculation for the settlement provided in this Article will be the United States dollar at its gold parity on the day of the signing of the Armistice Agreement, i.e. \$35 for one ounce of gold.

ARTICLE 23.⁴—* * *

² Substituting "Roumania" for "Bulgaria," Articles 12 through 20 correspond to Articles 10-11 and 13-19 of the Bulgarian treaty.

³ Substituting "Roumania" for "Hungary," Article 21 corresponds to Article 22 of the Hungarian treaty.

⁴ Substituting "Roumania" for "Italy," Article 23 corresponds to Article 75 of the Italian treaty with the omission of Paragraph 8 of the latter.

PART VI. ECONOMIC CLAUSES

ARTICLE 24.⁵—* * *ARTICLE 25.⁶—* * *ARTICLES 26–40.⁷—* * *LIST OF ANNEXES ⁸

- I. Map of Roumanian Frontiers (*not reproduced here*)
- II. Definition of Military, Military Air and Naval Training
- III. Definition and list of war material
- IV. Special provisions relating to certain kinds of property:
 - A. Industrial, Literary and Artistic Property
 - B. Insurance
- V. Contracts, Prescription and Negotiable Instruments
- VI. Prize Courts and Judgments

In faith whereof the undersigned Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

Done in the city of Paris in the Russian, English, French and Roumanian languages this tenth day of

⁵ Substituting "Roumania" for "Italy," "September 1, 1939" for "June 10, 1940," and the date of the Roumanian Armistice for that of the Italian Armistice, Article 24 follows generally Article 78 of the Italian treaty with the omission of Paragraph 7 of the latter and the inclusion of the additional clause found in Article 23 of the Bulgarian treaty. A special provision also exempts Roumania from liability for property damage in Northern Transylvania while that territory was not subject to Roumanian authority.

⁶ Substituting "Roumania" for "Hungary," Article 25 corresponds to Article 27 of the Hungarian treaty.

⁷ Substituting "Roumania" for "Bulgaria," "September 12, 1944" for "October 28, 1945," "lei" for "levas," and "Bucharest" for "Sofia," Articles 26–35 correspond to Articles 24–33 of the Bulgarian treaty; Part VII, Article 36, to Article 34; and Part VIII, Articles 37–40, to Articles 35–38.

⁸ Substituting "Roumania" for "Italy" and "June 22, 1941" for "June 10, 1940," Annex II corresponds to Part B of Annex XIII to the Italian treaty; Annex III to Part C of Annex XIII; Annex IV to Annex XV; Annex V to Annex XVI; and Annex VI to Annex XVII.

February, One Thousand Nine Hundred Forty-Seven.

Here follow the signatures of the Plenipotentiaries of:

Union of Soviet Socialist Republics	Canada
	Czechoslovakia
United Kingdom of Great Britain and Northern Ireland	India
	New Zealand
	Ukrainian Soviet Socialist Republic
United States of America	
Australia	Union of South Africa
Byelorussian Soviet Socialist Republic	Roumania

(5) Treaty of Peace between the Allied and Associated Powers and Finland, Paris, 10 February 1947*

(Department of State Publication 2743)

The Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, Australia, the Byelorussian Soviet Socialist Republic, Canada, Czechoslovakia, India, New Zealand, the Ukrainian Soviet Socialist Republic, and the Union of South Africa, as the States which are at war with Finland and actively waged war against the European enemy states with substantial military forces, hereinafter referred to as "the Allied and Associated Powers", of the one part,
and Finland, of the other part;

Whereas Finland, having become an ally of Hitlerite Germany and having participated on her side in the war against the Union of Soviet Socialist Republics, the United Kingdom and other United Nations, bears her share of responsibility for this war;

Whereas, however, Finland on September 4, 1944, entirely ceased military operations against the Union

*The text consists of versions in the Russian, English, French and Finnish languages, of which the first two were declared to be "authentic."

of Soviet Socialist Republics, withdrew from the war against the United Nations, broke off relations with Germany and her satellites, and, having concluded on September 19, 1944, an Armistice with the Governments of the Union of Soviet Socialist Republics and the United Kingdom, acting on behalf of the United Nations at war with Finland, loyally carried out the Armistice terms; and

Whereas the Allied and Associated Powers and Finland are desirous of concluding a treaty of peace which, conforming to the principles of justice, will settle questions still outstanding as a result of the events hereinbefore recited and will form the basis of friendly relations between them, thereby enabling the Allied and Associated Powers to support Finland's application to become a member of the United Nations and also to adhere to any Convention concluded under the auspices of the United Nations;

Have therefore agreed to declare the cessation of the state of war and for this purpose to conclude the present Treaty of Peace, and have accordingly appointed the undersigned Plenipotentiaries who, after presentation of their full powers, found in good and due form, have agreed on the following provisions:

PART I. TERRITORIAL CLAUSES

ARTICLE 1.—The frontiers of Finland, as shown on the map annexed to the present Treaty (Annex I), shall be those which existed on January 1, 1941, except as provided in the following Article.

ARTICLE 2.—In accordance with the Armistice Agreement of September 19, 1944, Finland confirms the return to the Soviet Union of the province of Petsamo (Pechenga) voluntarily ceded to Finland by the Soviet State under the Peace Treaties of October 14, 1920, and March 12, 1940. The frontiers of the

province of Petsamo (Pechenga) are shown on the map annexed to the present Treaty (Annex I).

PART II. POLITICAL CLAUSES

SECTION I

ARTICLE 3.—In accordance with the Armistice Agreement, the effect of the Peace Treaty between the Soviet Union and Finland concluded in Moscow on March 12, 1940, is restored, subject to the replacement of Articles 4, 5 and 6 of that Treaty by Articles 2 and 4 of the present Treaty.

ARTICLE 4.—1. In accordance with the Armistice Agreement, the Soviet Union confirms the renunciation of its right to the lease of the Peninsula of Hango, accorded to it by the Soviet-Finnish Peace Treaty of March 12, 1940, and Finland for her part confirms having granted to the Soviet Union on the basis of a fifty years lease at an annual rent payable by the Soviet Union of five million Finnish marks the use and administration of territory and waters for the establishment of a Soviet naval base in the area of Porkkala-Udd as shown on the map annexed to the present Treaty (Annex I).

2. Finland confirms having secured to the Soviet Union, in accordance with the Armistice Agreement, the use of the railways, waterways, roads and air routes necessary for the transport of personnel and freight dispatched from the Soviet Union to the naval base at Porkkala-Udd, and also confirms having granted to the Soviet Union the right of unimpeded use of all forms of communication between the Soviet Union and the territory leased in the area of Porkkala-Udd.

ARTICLE 5.—The Aaland Islands shall remain demilitarized in accordance with the situation as at present existing.

SECTIONS II-III

ARTICLES 6-12.¹— * * *PART III. MILITARY, NAVAL AND AIR
CLAUSES

ARTICLE 13.—The maintenance of land, sea and air armaments and fortifications shall be closely restricted to meeting tasks of an internal character and local defence of frontiers. In accordance with the foregoing, Finland is authorised to have armed forces consisting of not more than:

(a) A land army, including frontier troops and anti-aircraft artillery, with a total strength of 34,400 personnel;

(b) A navy with a personnel strength of 4,500 and a total tonnage of 10,000 tons;

(c) An air force, including any naval air arm, of 60 aircraft, including reserves, with a total personnel strength of 3,000. Finland shall not possess or acquire any aircraft designed primarily as bombers with internal bomb-carrying facilities.

These strengths shall in each case include combat, service and overhead personnel.

ARTICLE 14.²— * * *ARTICLE 15.³— * * *

ARTICLE 16.—1. As from the coming into force of the present Treaty, Finland will be invited to join the Barents, Baltic and Black Sea Zone Board of the International Organisation for Mine Clearance of

¹ Substituting "Finland" for "Bulgaria," and the British and Soviet heads of mission in Helsinki for the American, British and Soviet heads of mission at Sofia, Section II, Articles 6-9, and Section III, Articles 10-12, correspond to Articles 2-8 of the Bulgarian treaty.

² Substituting "Finland" for "Bulgaria," Article 14 corresponds to Article 10 of the Bulgarian treaty.

³ Substituting "Finland" for "Bulgaria," Article 15 corresponds to Article 11 of the Bulgarian treaty.

European Waters and shall maintain at the disposal of the Central Mine Clearance Board all Finnish minesweeping forces until the end of the postwar mine clearance period, as determined by the Central Board.

2. During this postwar mine clearance period, Finland may retain additional naval units employed only for the specific purpose of minesweeping, over and above the tonnage permitted in Article 13.

Within two months of the end of the said period, such of these vessels as are on loan to the Finnish Navy from other Powers shall be returned to those Powers, and all other additional units shall be disarmed and converted to civilian use.

3. Finland is also authorised to employ 1,500 additional officers and men for minesweeping over and above the numbers permitted in Article 13. Two months after the completion of minesweeping by the Finnish Navy, the excess personnel shall be disbanded or absorbed within the numbers permitted in the said Article.

ARTICLE 17-22.⁴— * * *

PART IV. REPARATION AND RESTITUTION

ARTICLE 23.—1. Losses caused to the Soviet Union by military operations and by the occupation by Finland of Soviet territory shall be made good by Finland to the Soviet Union, but, taking into consideration that Finland has not only withdrawn from the war against the United Nations, but has also declared war on Germany and assisted with her forces in driving German troops out of Finland, the Parties agree that compensation for the above losses will be made by Finland not in full, but only in part, namely in the amount of \$300,000,000 payable over

⁴ Substituting "Finland" for "Bulgaria," Articles 17 through 22 correspond to Articles 13 through 18 of the Bulgarian treaty.

eight years from September 19, 1944, in commodities (timber products, paper, cellulose, sea-going and river craft, sundry machinery, and other commodities).

2. The basis of calculation for the settlement provided in this Article shall be the United States dollar at its gold parity on the day of the signing of the Armistice Agreement, i.e. \$35 for one ounce of gold.

ARTICLE 24.—Finland, in so far as she has not yet done so, undertakes within the time-limits indicated by the Government of the Soviet Union to return to the Soviet Union in complete good order all valuables and materials removed from its territory during the war, and belonging to State, public or cooperative organisations, enterprises or institutions or to individual citizens, such as: factory and works equipment, locomotives, rolling stock, tractors, motor vehicles, historic monuments, museum valuables and any other property.

PART V. ECONOMIC CLAUSES

ARTICLE 25.⁵—* * *

ARTICLE 26.⁶—* * *

ARTICLE 27.—In so far as any such rights were restricted on account of Finland's participation in the war on Germany's side, the rights of the Finnish Government and of any Finnish nationals, including juridical persons, relating to Finnish property or other Finnish assets on the territories of the Allied and Associated Powers shall be restored after the coming into force of the present Treaty.

⁵ Substituting "Finland" for "Bulgaria," "June 22, 1941" for "April 24, 1941," and "Finnish marks" for "levas," Article 25 corresponds to Article 23 of the Bulgarian treaty.

⁶ Substituting "Finland" for "Bulgaria," Article 26 corresponds to Article 24 of the Bulgarian treaty.

ARTICLE 28.⁷—* * *
 ARTICLE 29.⁸—* * *
 ARTICLE 30.⁹—* * *
 ARTICLES 31–33.¹⁰—* * *

PART VI. FINAL CLAUSES

ARTICLES 34–36.¹¹—* * *

LIST OF ANNEXES ¹²

- I. Map of the Frontiers of Finland and the Areas mentioned in Articles 2 and 4 (*not reproduced here*)
- II. Definition of Military, Military Air and Naval Training
- III. Definition and list of war material
- IV. Special provisions relating to certain kinds of property:
 - A. Industrial, Literary and Artistic Property
 - B. Insurance
- V. Contracts, Prescription and Negotiable Instruments

⁷ Substituting "Finland" for "Italy" and "September 19, 1944" for "September 3, 1943," Article 28 corresponds to Article 77 of the Italian treaty, with the omission of Paragraphs 4 and 5 of the latter.

⁸ Substituting "Finland" for "Italy," Article 29 corresponds to Article 76 of the Italian treaty, with the omission of Paragraphs 4 and 6 and the last sentence of Paragraph 2 of the latter

⁹ Substituting "Finland" for "Italy," Article 30 corresponds to Article 82 of the Italian treaty.

¹⁰ Substituting "Finland" for "Bulgaria," Articles 31 through 33 correspond to Articles 31 through 33 of the Bulgarian treaty.

¹¹ Substituting "Finland" for "Italy" and the British and Soviet heads of mission in Helsinki for the Four Ambassadors in Rome, Articles 34 through 36 correspond to Articles 86, 87 and 90 of the Italian treaty, with omission of mention of the United States and France. Article 36 further specifies that the treaty and the instruments of ratification be deposited with the Government of the U. S. S. R.

¹² Substituting "Finland" for "Italy" and "June 22, 1941" for "June 10, 1940," Annex II corresponds to Part B of Annex XIII to the Italian treaty; Annex III to Part C of Annex XIII; Annex IV to Annex XV; Annex V to Annex XVI, with the omission of Paragraph 2 of Part D of the latter; and Annex VI to Annex XVII.

VI. Prize Courts and Judgments

In faith whereof the undersigned Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

Done in the city of Paris in the Russian, English, French and Finnish languages this tenth day of February, One Thousand Nine Hundred Forty-Seven.

Here follow the signatures of the Plenipotentiaries of:

Union of Soviet Socialist Republics	Canada
United Kingdom of Great Britain and Northern Ireland	Czechoslovakia
Australia	India
Byelorussian Soviet Socialist Republic	New Zealand
	Ukrainian Soviet Socialist Republic
	Union of South Africa
	Finland

II. THE PACIFIC AREA

THE JAPANESE SURRENDER

NOTE.—In a declaration issued at Potsdam on 26 July 1945, the President of the United States, the President of the National Government of the Republic of China, and the Prime Minister of Great Britain called upon Japan to surrender unconditionally, and set forth the terms to be prescribed. Naval War College, International Law Documents 1944-45, p. 204. In a communication transmitted through the Swiss Legation on 10 August 1945, the Japanese Government intimated a willingness to accept the terms laid down; a reply was sent by the Secretary of State of the United States on the following day (*Ibid.*, pp. 247, 248). On 14 August 1945, the Japanese Emperor accepted the Potsdam declaration by an Imperial rescript (*Ibid.*, p. 262). Under the authorization conferred by an Imperial Proclamation, the formal instrument was signed at Tokyo Bay, 2 September 1945; Japanese representatives signed on behalf of the Emperor, the Japanese Government, and the Japanese Imperial General Headquarters.

(6) Instrument of Surrender, Tokyo Bay, 2 September 1945

(Executive Agreement Series, No. 493)

We, acting by command of and in behalf of the Emperor of Japan, the Japanese Government and the Japanese Imperial General Headquarters, hereby accept the provisions set forth in the declaration issued by the heads of the Governments of the United States, China and Great Britain on 26 July 1945, at Potsdam, and subsequently adhered to by the Union of Soviet Socialist Republics, which four powers are hereafter referred to as the Allied Powers.

We hereby proclaim the unconditional surrender to the Allied Powers of the Japanese Imperial General Headquarters and of all Japanese armed forces and all armed forces under Japanese control wherever situated.

We hereby command all Japanese forces wherever situated and the Japanese people to cease hostilities forthwith, to preserve and save from damage all ships, aircraft, and military and civil property and to comply with all requirements which may be im-

posed by the Supreme Commander for the Allied Powers or by agencies of the Japanese Government at his direction.

We hereby command the Japanese Imperial General Headquarters to issue at once orders to the Commanders of all Japanese forces and all forces under Japanese control wherever situated to surrender unconditionally themselves and all forces under their control.

We hereby command all civil, military and naval officials to obey and enforce all proclamations, orders and directives deemed by the Supreme Commander for the Allied Powers to be proper to effectuate this surrender and issued by him or under his authority and we direct all such officials to remain at their posts and to continue to perform their non-combatant duties unless specifically relieved by him or under his authority.

We hereby undertake for the Emperor, the Japanese Government and their successors to carry out the provisions of the Potsdam Declaration in good faith, and to issue whatever orders and take whatever action may be required by the Supreme Commander for the Allied Powers or by any other designated representative of the Allied Powers for the purpose of giving effect to that Declaration.

We hereby command the Japanese Imperial Government and the Japanese Imperial General Headquarters at once to liberate all allied prisoners of war and civilian internees now under Japanese control and to provide for their protection, care, maintenance and immediate transportation to places as directed.

The authority of the Emperor and the Japanese Government to rule the state shall be subject to the Supreme Commander for the Allied Powers who will take such steps as he deems proper to effectuate these terms of surrender.

Signed at Tokyo Bay, Japan at 0904 I on the second day of September, 1945.

[Signatures omitted.]

Accepted at Tokyo Bay, Japan at 0908 I on the second day of September, 1945, for the United States, Republic of China, United Kingdom and the Union of Soviet Socialist Republics, and in the interests of the other United Nations at war with Japan.

DOUGLAS MACARTHUR

Supreme Commander for the Allied Powers.

[Other signatures omitted.]

(7) Proclamation by the Emperor of Japan*

(Executive Agreement Series, No. 493)

Accepting the terms set forth in Declaration issued by the heads of the Governments of the United States, Great Britain and China on July 26th, 1945, at Potsdam and subsequently adhered to by the Union of Soviet Socialist Republics, We have commanded the Japanese Imperial Government and the Japanese Imperial General Headquarters to sign on Our behalf the Instrument of Surrender presented by the Supreme Commander for the Allied Powers and to issue General Orders to the Military and Naval Forces in accordance with the direction of the Supreme Commander for the Allied Powers. We command all Our people forthwith to cease hostilities, to lay down their arms and faithfully to carry out all the provisions of Instrument of Surrender and the General Orders issued by the Japanese Imperial Government and the Japanese Imperial General Headquarters hereunder.

This second day of the ninth month of the twentieth year of Syōwa.

[Seal of the Emperor]

Signed: HIROHITO

[Counter-signatures of fifteen Ministers omitted.]

*Translation.

FAR EASTERN COMMISSION

NOTE.—A Far Eastern Advisory Commission convened in Washington, 30 October 1945, to make recommendations on the formulation of policies, principles and standards with reference to Japan's fulfillment of its obligations under the instrument of surrender. Under an agreement reached by the Foreign Ministers of the Soviet Union, the United States and the United Kingdom, with the concurrence of China, at Moscow in December 1945, the Far Eastern Advisory Commission was replaced by the Far Eastern Commission; an Allied Council for Japan was established at the same time. The Far Eastern Commission held its first meeting at Washington on 26 February 1946.

(8) Terms of Reference of the Far Eastern Commission, Moscow, 27 December 1945

(13 Department of State Bulletin 1028)

I. ESTABLISHMENT OF THE COMMISSION

A Far Eastern Commission is hereby established composed of the representatives of the Union of Soviet Socialist Republics, United Kingdom, United States, China, France, the Netherlands, Canada, Australia, New Zealand, India, and the Philippine Commonwealth.

II. FUNCTIONS

A. The functions of the Far Eastern Commission shall be:

1. To formulate the policies, principles, and standards in conformity with which the fulfillment by Japan of its obligations under the Terms of Surrender may be accomplished.

2. To review, on the request of any member, any directive issued to the Supreme Commander for the Allied Powers or any action taken by the Supreme Commander involving policy decisions within the jurisdiction of the Commission.

3. To consider such other matters as may be assigned to it by agreement among the participating Governments reached in accordance with the voting procedure provided for in Article V-2 hereunder.

B. The Commission shall not make recommendations with regard to the conduct of military operations nor with regard to territorial adjustments.

C. The Commission in its activities will proceed from the fact that there has been formed an Allied Council for Japan and will respect existing control machinery in Japan, including the chain of command from the United States Government to the Supreme Commander and the Supreme Commander's command of occupation forces.

III. FUNCTIONS OF THE UNITED STATES GOVERNMENT

1. The United States Government shall prepare directives in accordance with policy decisions of the Commission and shall transmit them to the Supreme Commander through the appropriate United States Government agency. The Supreme Commander shall be charged with the implementation of the directives which express the policy decisions of the Commission.

2. If the Commission decides that any directive or action reviewed in accordance with Article II-A-2 should be modified, its decision shall be regarded as a policy decision.

3. The United States Government may issue interim directives to the Supreme Commander pending action by the Commission whenever urgent matters arise not covered by policies already formulated by the Commission; provided that any directives dealing with fundamental changes in the Japanese constitutional structure or in the regime of control, or dealing with a change in the Japanese Government as a whole will be issued only following consultation and following the attainment of agreement in the Far Eastern Commission.

4. All directives issued shall be filed with the Commission.

IV. OTHER METHODS OF CONSULTATION

The establishment of the Commission shall not preclude the use of other methods of consultation on Far Eastern issues by the participating Governments.

V. COMPOSITION

1. The Far Eastern Commission shall consist of one representative of each of the States party to this agreement. The membership of the Commission may be increased by agreement among the participating Powers as conditions warrant by the addition of representatives of other United Nations in the Far East or having territories therein. The Commission shall provide for full and adequate consultations, as occasion may require, with representatives of the United Nations not members of the Commission in regard to matters before the Commission which are of particular concern to such nations.

2. The Commission may take action by less than unanimous vote provided that action shall have the concurrence of at least a majority of all the representatives including the representatives of the four following Powers: United States, United Kingdom, Union of Soviet Socialist Republics and China.

VI. LOCATION AND ORGANIZATION

1. The Far Eastern Commission shall have its headquarters in Washington. It may meet at other places as occasion requires, including Tokyo, if and when it deems it desirable to do so. It may make such arrangements through the Chairman as may be practicable for consultation with the Supreme Commander for the Allied Powers.

2. Each representative on the Commission may be accompanied by an appropriate staff comprising both civilian and military representation.

3. The Commission shall organize its secretariat, appoint such committees as may be deemed advisable, and otherwise perfect its organization and procedure.

VII. TERMINATION

The Far Eastern Commission shall cease to function when a decision to that effect is taken by the concurrence of at least a majority of all the representatives including the representatives of the four following Powers: United States, United Kingdom, Union of Soviet Socialist Republics and China. Prior to the termination of its functions the Commission shall transfer to any interim or permanent security organization of which the participating Governments are members those functions which may appropriately be transferred. . . .

TRUSTEESHIP OF THE TERRITORY OF THE PACIFIC ISLANDS

NOTE. During the war of 1914–1918, Japan took possession of the Marshall, Caroline, and Marianas Islands, German possessions in the Pacific north of the Equator. After the termination of the war, the Principal Allied and Associated Powers agreed that Japan should have a Class “C” Mandate for these islands under Article 22 of the Covenant of the League of Nations. On 17 December 1920, the Council of the League of Nations approved the terms of the Japanese Mandate. By a treaty concluded with Japan on 11 February 1922, the United States consented to the Japanese administration of the islands pursuant to the mandate. Naval War College, International Law Documents, 1924, p. 73. On 18 April 1946, the Assembly of the League of Nations recognized “that, on the termination of the League’s existence, its functions with respect to the mandated territories will come to an end,” and envisaged “other arrangements” to be made for realizing the principles on which the mandates were based. League of Nations Official Journal, Supplement No. 194, p. 58.

During the war of 1939–1945, the United States took possession of the Pacific Islands under Japanese Mandate and placed them under military government. On 6 November 1946, the President announced that the United States was prepared to place those Japanese Mandated islands under trusteeship, with the United States as the administering authority. After having been circulated to various Governments, a draft of a strategic area trusteeship agreement was submitted to the Security Council of the United Nations on 26 February 1947, and with slight amendments it was approved by the Security Council on 2 April 1947. The Agreement entered into force upon its approval by the President of United States, pursuant to authority granted by the 80th Congress (Public Law 204), on 18 July 1947. By Executive Order of 18 July 1947, the President established an interim administration for the Territory, delegating to the Secretary of the Navy authority and responsibility for the civil administration of the area.

Eight Trusteeship Agreements were approved by the General Assembly of the United Nations on 13 December 1946, as follows: for Tanganyika (United Kingdom), for British Cameroons (United Kingdom), for British Togoland (United Kingdom), for Ruanda Urundi (Belgium), for French Cameroons (France), for French Togoland (France), for New Guinea (Australia), for Western Samoa (New Zealand).

BIBLIOGRAPHY: The United States and Non-Self-Governing Territories. Department of State Publication 2812.

(9) Trusteeship Agreement for the Territory of the Pacific Islands, Approved by the Security Council of the United Nations 2 April 1947, and by the President of the United States 18 July 1947

(16 Department of State Bulletin 791)

PREAMBLE.—Whereas Article 75 of the Charter of the United Nations provides for the establishment of an international trusteeship system for the ad-

ministration and supervision of such territories as may be placed thereunder by subsequent agreements; and

Whereas under Article 77 of the said Charter the trusteeship system may be applied to territories now held under mandate; and

Whereas on 17 December 1920 the Council of the League of Nations confirmed a mandate for the former German islands north of the equator to Japan, to be administered in accordance with Article 22 of the Covenant of the League of Nations; and

Whereas Japan, as a result of the Second World War, has ceased to exercise any authority in these islands;

Now, therefore, the Security Council of the United Nations, having satisfied itself that the relevant articles of the Charter have been complied with, hereby resolves to approve the following terms of trusteeship for the Pacific Islands formerly under mandate of Japan.

ARTICLE 1.—The Territory of the Pacific Islands, consisting of the islands formerly held by Japan under mandate in accordance with Article 22 of the Covenant of the League of Nations, is hereby designated as a strategic area and placed under the trusteeship system established in the Charter of the United Nations. The Territory of the Pacific Islands is hereinafter referred to as the trust territory.

ARTICLE 2.—The United States of America is designated as the administering authority of the trust territory.

ARTICLE 3.—The administering authority shall have full powers of administration, legislation, and jurisdiction over the territory subject to the provisions of this agreement, and may apply to the trust territory, subject to any modifications which the

administering authority may consider desirable, such of the laws of the United States as it may deem appropriate to local conditions and requirements.

ARTICLE 4.—The administering authority, in discharging the obligations of trusteeship in the trust territory, shall act in accordance with the Charter of the United Nations, and the provisions of this agreement, and shall, as specified in Article 83 (2) of the Charter, apply the objectives of the international trusteeship system, as set forth in Article 76 of the Charter, to the people of the trust territory.

ARTICLE 5.—In discharging its obligations under Article 76 (a) and Article 84, of the Charter, the administering authority shall ensure that the trust territory shall play its part, in accordance with the Charter of the United Nations, in the maintenance of international peace and security. To this end the administering authority shall be entitled:

1. to establish naval, military and air bases and to erect fortifications in the trust territory;

2. to station and employ armed forces in the territory; and

3. to make use of volunteer forces, facilities and assistance from the trust territory in carrying out the obligations toward the Security Council undertaken in this regard by the administering authority, as well as for the local defense and the maintenance of law and order within the trust territory.

ARTICLE 6.—In discharging its obligations under Article 76 (b) of the Charter, the administering authority shall:

1. foster the development of such political institutions as are suited to the trust territory and shall promote the development of the inhabitants of the trust territory toward self-government or independence as may be appropriate to the particular circumstances of the trust territory and its peoples

and the freely expressed wishes of the peoples concerned; and to this end shall give to the inhabitants of the trust territory a progressively increasing share in the administrative services in the territory; shall develop their participation in government; shall give due recognition to the customs of the inhabitants in providing a system of law for the territory; and shall take other appropriate measures toward these ends;

2. promote the economic advancement and self-sufficiency of the inhabitants, and to this end shall regulate the use of natural resources; encourage the development of fisheries, agriculture, and industries; protect the inhabitants against the loss of their lands and resources; and improve the means of transportation and communication;

3. promote the social advancement of the inhabitants and to this end shall protect the rights and fundamental freedoms of all elements of the population without discrimination; protect the health of the inhabitants; control the traffic in arms and ammunition, opium and other dangerous drugs, and alcohol and other spirituous beverages; and institute such other regulations as may be necessary to protect the inhabitants against social abuses; and

4. promote the educational advancement of the inhabitants, and to this end shall take steps toward the establishment of a general system of elementary education; facilitate the vocational and cultural advancement of the population; and shall encourage qualified students to pursue higher education, including training on the professional level.

ARTICLE 7.—In discharging its obligations under Article 76 (c) of the Charter, the administering authority shall guarantee to the inhabitants of the trust territory freedom of conscience, and, subject only to the requirements of public order and security,

freedom of speech, of the press, and of assembly; freedom of worship, and of religious teaching; and freedom of migration and movement.

ARTICLE 8.—1. In discharging its obligations under Article 76 (d) of the Charter, as defined by Article 83 (2) of the Charter, the administering authority, subject to the requirements of security, and the obligation to promote the advancement of the inhabitants, shall accord to nationals of each Member of the United Nations and to companies and associations organized in conformity with the laws of such Member, treatment in the trust territory no less favourable than that accorded therein to nationals, companies and associations of any other United Nation except the administering authority.

2. The administering authority shall ensure equal treatment to the Members of the United Nations and their nationals in the administration of justice.

3. Nothing in this Article shall be so construed as to accord traffic rights to aircraft flying into and out of the trust territory. Such rights shall be subject to agreement between the administering authority and the state whose nationality such aircraft possesses.

4. The administering authority may negotiate and conclude commercial and other treaties and agreements with Members of the United Nations and other states, designed to attain for the inhabitants of the trust territory treatment by the Members of the United Nations and other states no less favourable than that granted by them to the nationals of other states. The Security Council may recommend or invite other organs of the United Nations to consider and recommend, what rights the inhabitants of the trust territory should acquire in consideration of the rights obtained by Members of the United Nations in the trust territory.

ARTICLE 9.—The administering authority shall be entitled to constitute the trust territory into a customs, fiscal, or administrative union or federation with other territories under United States jurisdiction and to establish common services between such territories and the trust territory where such measures are not inconsistent with the basic objectives of the International Trusteeship System and with the terms of this agreement.

ARTICLE 10.—The administering authority, acting under the provisions of Article 3 of this agreement, may accept membership in any regional advisory commission, regional authority, or technical organization, or other voluntary association of states, may co-operate with specialized international bodies, public or private, and may engage in other forms of international co-operation.

ARTICLE 11.—1. The administering authority shall take the necessary steps to provide the status of citizenship of the trust territory for the inhabitants of the trust territory.

2. The administering authority shall afford diplomatic and consular protection to inhabitants of the trust territory when outside the territorial limits of the trust territory or of the territory of the administering authority.

ARTICLE 12.—The administering authority shall enact such legislation as may be necessary to place the provisions of this agreement in effect in the trust territory.

ARTICLE 13.—The provisions of Articles 87 and 88 of the Charter shall be applicable to the trust territory, provided that the administering authority may determine the extent of their applicability to any areas which may from time to time be specified by it as closed for security reasons.

ARTICLE 14.—The administering authority undertakes to apply in the trust territory the provisions of any international conventions and recommendations which may be appropriate to the particular circumstances of the trust territory and which would be conducive to the achievement of the basic objectives of Article 6 of this agreement.

ARTICLE 15.—The terms of the present agreement shall not be altered, amended or terminated without the consent of the administering authority.

ARTICLE 16.—The present agreement shall come into force when approved by the Security Council of the United Nations and by the Government of the United States after due constitutional process.

(10) Interim Administration for the Territory of the Pacific Islands, Executive Order 9875, 18 July 1947

(12 Federal Register 4837)

Whereas the Trust Territory of the Pacific Islands (hereinafter referred to as the trust territory) has been placed under the trusteeship system established in the Charter of the United Nations by means of a trusteeship agreement (hereinafter referred to as the agreement), approved by the Security Council of the United Nations on April 2, 1947, and by the United States Government on July 18, 1947, after due constitutional process; and

Whereas the United States of America, under the terms of the agreement, is designated as the administering authority of the trust territory and has assumed obligations for the government thereof; and

Whereas it is necessary to establish an interim administration of the trust territory, pending the enactment of appropriate legislation by the Congress of the United States providing for the future government thereof:

Now, therefore, by virtue of the authority vested in

me as President of the United States, it is ordered as follows:

1. The military government in the former Japanese Mandated Islands is hereby terminated, and the authority and responsibility for the civil administration of the trust territory, on an interim basis, is hereby delegated to the Secretary of the Navy.

2. The Secretary of the Navy shall, subject to such policies as the President may from time to time prescribe, and, when appropriate, in collaboration with other departments or agencies of the Federal Government, carry out the obligations which the United States, as the administering authority of the trust territory, has assumed under the terms of the agreement and the Charter of the United Nations: *Provided, however*, that the authority granted to the United States under Article 13 of the agreement to close any areas for security reasons and to determine the extent to which Articles 87 and 88 of the Charter of the United Nations shall be applicable to such closed areas shall be exercised jointly by the Secretary of the Navy and the Secretary of State: *And Provided further*, that all relations between departments or agencies of the Federal Government and appropriate organs of the United Nations with respect to the trust territory shall be conducted through the Secretary of State.

3. This order, subject to subsequent modification, shall be effective as of this date and shall remain effective until a designation is made of the civilian department or agency which is to have permanent responsibility for the government of the trust territory.

HARRY S. TRUMAN

THE WHITE HOUSE,
July 18, 1947.

AGREEMENTS BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF THE PHILIPPINES

NOTE.—In pursuance of an Act of Congress of 24 March 1934 (Naval War College, *International Law Situations*, 1933, p. 127), the Commonwealth of the Philippines was established on 15 November 1935. The Constitution of the Philippines, adopted on 8 February 1935 and approved by the President of the United States on 23 March 1935, was accepted by the Philippine electorate on 14 May 1935. The Commonwealth was replaced by the Republic of the Philippines on 4 July 1946. A provisional agreement and a treaty of general relations, with an accompanying protocol, were concluded between the United States and the Republic on the same day; ratifications of the treaty were exchanged at Manila on 22 October 1946. On 16 November 1946, the two Governments concluded a treaty of conciliation and an air transport agreement, and on 14 March 1947 a consular convention and an agreement on military bases. An agreement on military assistance was concluded on 21 March 1947.

(11) Provisional Agreement Between the United States and the Republic of the Philippines, Manila, 4 July 1946

(Treaties and Other International Acts Series 1539)

The Government of the United States of America and the Government of the Republic of the Philippines, considering that in accordance with the expressed will of the Congress and people of the United States of America and of the Congress and people of the Philippines, the political ties which have united these two peoples are to be dissolved on July 4, 1946,

Considering also the mutual desire that the friendship and affection which have long existed between the two peoples shall be reaffirmed and continued without interruption for all time, and

Desiring to establish a basis for relations between the Governments of the two countries pending the conclusion, by established constitutional processes, of definitive treaties,

Do now make of record this provisional agreement concerning friendly relations and diplomatic and consular representation.

ARTICLE I.—The Government of the United States of America recognizes the Republic of the Philippines as a separate, independent and self-governing nation and acknowledges the authority and control of the Government of the Republic of the Philippines over the territory of the Philippine Islands.

ARTICLE II.—The Government of the United States of America will notify the Governments with which it has diplomatic relations of the independence of the Republic of the Philippines and will invite those Governments to recognize the Republic of the Philippines as a member of the family of nations.

ARTICLE III.—The diplomatic representatives of each contracting party shall enjoy in the territories of the other the privileges and immunities derived from generally recognized international law. The consular representatives of each contracting party, duly provided with exequaturs, shall be permitted to reside in the territories of the other; they shall enjoy the privileges and immunities accorded to such officers by general international usage; and they shall not be treated in a manner less favorable than similar officers of any third country.

ARTICLE IV.—The two contracting parties mutually agree that they will forthwith enter into negotiations for the conclusion of treaties and agreements regulating relations between the two countries, including a treaty of friendship, commerce and navigation, an executive agreement relating to trade, a general relations treaty, a consular convention, and other treaties and agreements as may be necessary, and will endeavor to conclude these instruments as soon as may be possible.

ARTICLE V.—This provisional agreement shall enter into force upon signature.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto by their respective Governments, have signed this provisional agreement at Manila this fourth day of July, one thousand nine hundred forty-six.

For the Government of the United States of America:

[SEAL]

PAUL V. McNUTT

For the Government of the Republic of the Philippines:

[SEAL]

MANUEL ROXAS

(12) Treaty of General Relations, Manila, 4 July 1946

(Treaties and Other International Acts Series 1568)

The United States of America and the Republic of the Philippines, being animated by the desire to cement the relations of close and long friendship existing between the two countries, and to provide for the recognition of the independence of the Republic of the Philippines as of July 4, 1946 and the relinquishment of American sovereignty over the Philippine Islands, have agreed upon the following articles:

ARTICLE I.—The United States of America agrees to withdraw and surrender, and does hereby withdraw and surrender, all right of possession, supervision, jurisdiction, control or sovereignty existing and exercised by the United States of America in and over the territory and the people of the Philippine Islands, except the use of such bases, necessary appurtenances to such bases, and the rights incident thereto, as the United States of America, by agreement with the Republic of the Philippines, may deem necessary to retain for the mutual protection of the United States of America and of the Republic of the Philippines. The United States of America further

agrees to recognize, and does hereby recognize, the independence of the Republic of the Philippines as a separate self-governing nation and to acknowledge, and does hereby acknowledge, the authority and control over the same of the Government instituted by the people thereof, under the Constitution of the Republic of the Philippines.

ARTICLE II.—The diplomatic representatives of each country shall enjoy in the territories of the other the privileges and immunities derived from generally recognized international law and usage. The consular representatives of each country, duly provided with *exequatur*, will be permitted to reside in the territories of the other in the places wherein consular representatives are by local laws permitted to reside; they shall enjoy the honorary privileges and the immunities accorded to such officers by general international usage; and they shall not be treated in a manner less favorable than similar officers of any other foreign country.

ARTICLE III.—Pending the final establishment of the requisite Philippine Foreign Service establishments abroad, the United States of America and the Republic of the Philippines agree that at the request of the Republic of the Philippines the United States of America will endeavor, in so far as it may be practicable, to represent through its Foreign Service the interests of the Republic of the Philippines in countries where there is no Philippine representation. The two countries further agree that any such arrangements are to be subject to termination when in the judgment of either country such arrangements are no longer necessary.

ARTICLE IV.—The Republic of the Philippines agrees to assume, and does hereby assume, all the debts and liabilities of the Philippine Islands, its provinces, cities, municipalities and instrumentalities,

which shall be valid and subsisting on the date hereof. The Republic of the Philippines will make adequate provision for the necessary funds for the payment of interest on and principal of bonds issued prior to May 1, 1934 under authority of an Act of Congress of the United States of America by the Philippine Islands, or any province, city or municipality therein, and such obligations shall be a first lien on the taxes collected in the Philippines.

ARTICLE V.—The United States of America and the Republic of the Philippines agree that all cases at law concerning the Government and people of the Philippines which, in accordance with Section 7 (6) of the Independence Act of 1934, are pending before the Supreme Court of the United States of America at the date of the granting of the independence of the Republic of the Philippines shall continue to be subject to the review of the Supreme Court of the United States of America for such period of time after independence as may be necessary to effectuate the disposition of the cases at hand. The contracting parties also agree that following the disposition of such cases the Supreme Court of the United States of America will cease to have the right of review of cases originating in the Philippine Islands.

ARTICLE VI.—In so far as they are not covered by existing legislation, all claims of the Government of the United States of America or its nationals against the Government of the Republic of the Philippines and all claims of the Government of the Republic of the Philippines and its nationals against the Government of the United States of America shall be promptly adjusted and settled. The property rights of the United States of America and the Republic of the Philippines shall be promptly adjusted and settled by mutual agreement, and all existing property rights of citizens and corporations of the United

States of America in the Republic of the Philippines and of citizens and corporations of the Republic of the Philippines in the United States of America shall be acknowledged, respected and safeguarded to the same extent as property rights of citizens and corporations of the Republic of the Philippines and of the United States of America respectively. Both Governments shall designate representatives who may in concert agree on measures best calculated to effect a satisfactory and expeditious disposal of such claims as may not be covered by existing legislation.

ARTICLE VII.—The Republic of the Philippines agrees to assume all continuing obligations assumed by the United States of America under the Treaty of Peace between the United States of America and Spain concluded at Paris on the 10th day of December, 1898, by which the Philippine Islands were ceded to the United States of America, and under the Treaty between the United States of America and Spain concluded at Washington on the 7th day of November, 1900.

ARTICLE VIII.—This Treaty shall enter into force on the exchange of instruments of ratification.

This Treaty shall be submitted for ratification in accordance with the constitutional procedures of the United States of America and of the Republic of the Philippines; and instruments of ratification shall be exchanged and deposited at Manila.

Signed at Manila this fourth day of July, one thousand nine hundred forty-six.

For the Government of the United States of America:

[SEAL]

PAUL V. McNUTT

For the Government of the Republic of the Philippines:

[SEAL]

MANUEL ROXAS

PROTOCOL TO THE TREATY OF GENERAL RELATIONS,
4 JULY 1946

It is understood and agreed by the High Contracting Parties that this Treaty is for the purpose of recognizing the independence of the Republic of the Philippines and for the maintenance of close and harmonious relations between the two Governments.

It is understood and agreed that this Treaty does not attempt to regulate the details of arrangements between the two Governments for their mutual defense; for the establishment, termination or regulation of the rights and duties of the two countries, each with respect to the other, in the settlement of claims, as to the ownership or control of real or personal property, or as to the carrying out of provisions of law of either country; or for the settlement of rights or claims of citizens or corporations of either country with respect to or against the other.

It is understood and agreed that the conclusion and entrance into force of this Treaty is not exclusive of further treaties and executive agreements providing for the specific regulation of matters broadly covered herein.

It is understood and agreed that pending final ratification of this Treaty, the provisions of Articles II and III shall be observed by executive agreement.

Signed at Manila this fourth day of July, one thousand nine hundred forty-six.

For the Government of the United States of America:

[SEAL]

PAUL V. McNUTT

For the Government of the Republic of the Philippines:

[SEAL]

MANUEL ROXAS

**(13) Agreement Concerning Military Bases, Manila,
14 March 1947***

(Department of State Press Release 193)

Whereas, the war in the Pacific has confirmed the mutuality of interest of the United States of America and the Republic of the Philippines in matters relating to the defense of their respective territories and that mutuality of interest demands that the Governments of the two countries take the necessary measures to promote their mutual security and to defend their territories and areas;

Whereas, the Governments of the United States of America and of the Republic of the Philippines are desirous of cooperating in the common defense of their two countries through arrangements consonant with the procedures and objectives of the United Nations; and particularly through a grant to the United States of America by the Republic of the Philippines, in the exercise of its title and sovereignty, of the use, free of rent, in furtherance of the mutual interest of both countries, of certain lands of the public domain;

Whereas, the Government of the Republics of the Philippines has requested United States assistance in providing for the defense of the Philippines and in developing for such defense effective Philippine Armed Forces;

Whereas, pursuant to this request the Government of the United States of America has, in view of its interest in the welfare of the Philippines indicated its intention of dispatching a military mission to the Philippines and of extending to her appropriate

*Not in force, 3 October 1947.

assistance in the development of the Philippine defense forces;

Whereas, a Joint Resolution of the Congress of the United States of America of June 29, 1944, authorized the President of the United States of America to acquire bases for the mutual protection of the Philippines and of the United States of America; and

Whereas, Joint Resolution No. 4 of the Congress of the Philippines, approved July 28, 1945, authorized the President of the Republic of the Philippines to negotiate with the President of the United States of America for the establishment of bases provided for in the Joint Resolution of the Congress of the United States of America of June 29, 1944, with a view to insuring the territorial integrity of the Philippines, the mutual protection of the Philippines and the United States of America, and the maintenance of peace in the Pacific;

Therefore the Governments of the United States of America and of the Republic of the Philippines agree upon the following terms for the delimitation, establishment, maintenance and operation of military bases in the Philippines:

ARTICLE I. *Grant of Bases.*—1. The Government of the Republic of the Philippines (hereinafter referred to as the Philippines) grants to the Government of the United States of America (hereinafter referred to as the United States) the right to retain the use of the bases in the Philippines listed in Annex A attached hereto.

2. The Philippines agrees to permit the United States, upon notice to the Philippines, to use such of those bases listed in Annex B as the United States determines to be required by military necessity.

3. The Philippines agrees to enter into negotiations with the United States at the latter's request, to permit the United States to expand such bases, to

exchange such bases for other bases, to acquire additional bases, or relinquish rights to bases, as any of such exigencies may be required by military necessity.

4. A narrative description of the boundaries of the bases to which this Agreement relates is given in Annex A and Annex B. An exact description of the bases listed in Annex A, with metes and bounds, in conformity with the narrative descriptions will be agreed upon between the appropriate authorities of the two Governments as soon as possible. With respect to any of the bases listed in Annex B, an exact description with metes and bounds, in conformity with the narrative description of such bases, will be agreed upon if and when such bases are acquired by the United States.

ARTICLE II. *Mutual Cooperation*.—1. It is mutually agreed that the armed forces of the Philippines may serve on United States bases and that the armed forces of the United States may serve on Philippine military establishments whenever such conditions appear beneficial as mutually determined by the armed forces of both countries.

2. Joint outlined plans for the development of military bases in the Philippines may be prepared by military authorities of the two Governments.

3. In the interests of international security any bases listed in Annexes A and B may be made available to the Security Council of the United Nations on its call by prior mutual agreement between the Philippines and the United States.

ARTICLE III. *Description of Rights*.—1. It is mutually agreed that the United States shall have the rights, power and authority within the bases which are necessary for the establishment, use, operation and defense thereof or appropriate for the control thereof and all the rights, power and authority

within the limits of territorial waters and air space adjacent to, or in the vicinity of, the bases which are necessary to provide access to them, or appropriate for their control.

2. Such rights, power and authority shall include, inter alia, the right, power and authority:

(a) to construct (including dredging and filling), operate, maintain, utilize, occupy, garrison and control the bases;

(b) to improve and deepen the harbors, channels, entrances and anchorages, and to construct or maintain necessary roads and bridges affording access to the bases;

(c) to control (including the right to prohibit) in so far as may be required for the efficient operation and safety of the bases, and within the limits of military necessity, anchorages, moorings, landings, take-offs, movements and operation of ships and waterborne craft, craft and other vehicles on water, in the air or on land comprising or in the vicinity of the bases;

(d) the right to acquire, as may be agreed between the two Governments, such rights of way, and to construct thereon, as may be required for military purpose, wire and radio communications facilities, including submarine and subterranean cables, pipe lines and spur tracks from railroads to bases, and the right, as may be agreed upon between the two Governments to construct the necessary facilities;

(e) to construct, install, maintain, and employ on any base any type of facilities, weapons, substance, device, vessel or vehicle on or under the ground, in the air or on or under the water that may be requisite or appropriate, including meteorological systems, aerial and water navigation lights, radio and radar apparatus and electronic devices of any desired power, type of emission and frequency.

3. In the exercise of the above-mentioned rights, power and authority, the United States agrees that the powers granted to it will not be used unreasonably or, unless required by military necessity determined by the two Governments so as to interfere with the necessary rights of navigation, aviation, communication, or land travel within the territories of the Philippines. In the practical application outside the bases of the rights, power and authority granted in this Article there shall be, as the occasion requires, consultation between the two Governments.

ARTICLE IV. *Shipping and Navigation*.—1. It is mutually agreed that United States public vessels operated by or for the War or Navy Departments, the Coast Guard or the Coast and Geodetic Survey, and the military forces of the United States, military and naval aircraft and Government-owned vehicles, including armor, shall be accorded free access to and movement between ports and United States bases throughout the Philippines, including territorial waters, by land, air and sea. This right shall include freedom from compulsory pilotage and all toll charges. If, however, a pilot is taken, pilotage shall be paid for at appropriate rates. In connection with entrance into Philippine ports by United States public vessels appropriate notification under normal conditions shall be made to the Philippine authorities.

2. Lights and other aids to navigation of vessels and aircraft placed or established in the bases and territorial waters adjacent thereto or in the vicinity of such bases shall conform to the system in use in the Philippines. The position, characteristics and any alterations in the light or other aids shall be communicated in advance to the appropriate authorities of the Philippines.

3. Philippine commercial vessels may use the bases

on the same terms and conditions as United States commercial vessels.

4. It is understood that a base is not a part of the territory of the United States for the purpose of coastwise shipping laws so as to exclude Philippine vessels from trade between the United States and the bases.

ARTICLE V. *Exemption From Customs and Other Duties.*—No import, excise, consumption or other tax, duty or impost shall be charged on material, equipment, supplies or goods, including food stores and clothing, for exclusive use in the construction, maintenance, operation or defense of the bases, consigned to, or destined for, the United States authorities and certified by them to be for such purposes.

ARTICLE VI. *Maneuver and Other Areas.*—The United States shall, subject to previous agreement with the Philippines, have the right to use land and coastal sea areas of appropriate size and location for periodic maneuvers, for additional staging areas, bombing and gunnery ranges, and for such intermediate airfields as may be required for safe and efficient air operations. Operations in such areas shall be carried on with due regard and safeguards for the public safety.

ARTICLE VII. *Use of Public Services.*—It is mutually agreed that the United States may employ and use for United States military forces any and all public utilities, other services and facilities, airfields, ports, harbors, roads, highways, railroads, bridges, viaducts, canals, lakes, rivers and streams in the Philippines under conditions no less favorable than those that may be applicable from time to time to the military forces of the Philippines.

ARTICLE VIII. *Health Measures Outside Bases.*—It is mutually agreed that the United States may construct, subject to agreement by the appropriate

Philippine authorities, wells, water catchment areas or dams to insure an ample supply of water for all base operations and personnel. The United States shall likewise have the right, in cooperation with the appropriate authorities of the Philippines, to take such steps as may be mutually agreed upon to be necessary to improve health and sanitation in areas contiguous to the bases, including the right, under such conditions as may be mutually agreed upon, to enter and inspect any privately owned property. The United States shall pay just compensation for any injury to persons or damage to property that may result from action taken in connection with this Article.

ARTICLE IX. *Surveys*.—It is mutually agreed that the United States shall have the right, after appropriate notification has been given to the Philippines, to make topographic, hydrographic, and coast and geodetic surveys and aerial photographs in any part of the Philippines and waters adjacent thereto. Copies with title and triangulation data of any surveys or photomaps made of the Philippines shall be furnished to the Philippines.

ARTICLE X. *Cemeteries and Historical Sites*.—1. The United States shall have the right to use and maintain such United States military cemeteries and such sites of historical significance to the United States as may be agreed upon by the two Governments. All rights, power and authority in relation to bases granted under this Agreement shall be applicable, in so far as appropriate, to the cemeteries and sites mentioned in this Article.

2. Furthermore, it is recognized that there are certain cemeteries and historical sites in the Philippines revered in the memory of the People of the United States and of the Philippines, and it is therefore fitting that the maintenance and improvement

of such memorials be the common concern of the two countries.

ARTICLE XI. *Immigration.*—1. It is mutually agreed that the United States shall have the right to bring into the Philippines members of the United States military forces and the United States nationals employed by or under a contract with the United States together with their families, and technical personnel of other nationalities (not being persons excluded by the laws of the Philippines) in connection with the construction, maintenance, or operation of the bases. The United States shall make suitable arrangements so that such persons may be readily identified and their status established when necessary by the Philippine authorities. Such persons, other than members of the United States armed forces in uniform, shall present their travel documents to the appropriate Philippine authorities for visas, it being understood that no objection will be made to their travel to the Philippines as non-immigrants.

2. If the status of any person within the Philippines and admitted thereto under the foregoing paragraph shall be altered so that he would no longer be entitled to such admission, the United States shall notify the Philippines and shall, if such person be required to leave the Philippines by the latter Government, be responsible for providing him with a passage from the Philippines within a reasonable time, and shall in the meantime prevent his becoming a public responsibility of the Philippines.

ARTICLE XII. *Internal Revenue Tax Exemption.*—1. No member of the United States armed forces, except Filipino citizens, serving in the Philippines in connection with the bases and residing in the Philippines by reason only of such service, or his dependents, shall be liable to pay income tax in the Philip-

piners except in respect of income derived from Philippine sources.

2. No national of the United States serving in or employed in the Philippines in connection with the construction, maintenance, operation or defense of the bases and residing in the Philippines by reason only of such employment, or his spouse and minor children and dependent parents of either spouse, shall be liable to pay income tax in the Philippines except in respect of income derived from Philippine sources or sources other than the United States sources.

3. No person referred to in paragraphs 1 and 2 of this Article shall be liable to pay to the Government or local authorities of the Philippines any poll or residence tax, or any import or export duty, or any other tax on personal property imported for his own use; provided that privately owned vehicles shall be subject to payment of the following only: when certified as being used for military purposes by appropriate United States authorities, the normal license plate fee; otherwise, the normal license plate and registration fees.

4. No national of the United States, or corporation organized under the laws of the United States, resident in the United States, shall be liable to pay income tax in the Philippines in respect of any profits derived under a contract made in the United States with the Government of the United States in connection with the construction, maintenance, operation and defense of the bases, or any tax in the nature of a license in respect of any service or work for the United States in connection with the construction, maintenance, operation and defense of the bases.

ARTICLE XIII. *Jurisdiction*.—1. The Philippines

consents that the United States shall have the right to exercise jurisdiction over the following offenses:

(a) Any offense committed by any person within any base; except where the offender and the offended parties are both Philippine citizens, not members of the Armed Forces of the United States on active duty or the offense is against the security of the Philippines, and the offender is a Philippine citizen;

(b) Any offense committed outside the bases by any member of the Armed Forces of the United States in which the offended party is also a member of the Armed Forces of the United States; and

(c) Any offense committed outside the bases by any member of the Armed Forces of the United States against the security of the United States.

2. The Philippines shall have the right to exercise jurisdiction over all other offenses committed outside the bases by any member of the Armed Forces of the United States.

3. Whenever for special reasons the United States may desire not to exercise the jurisdiction reserved to it in paragraphs 1 and 6 of this Article, the officer holding the offender in custody shall so notify the fiscal (prosecuting attorney) of the city or province in which the offense has been committed within ten days after his arrest, and in such a case the Philippines shall exercise jurisdiction.

4. Whenever for special reasons the Philippines may desire not to exercise the jurisdiction reserved to it in paragraph 2 of this Article, the fiscal (prosecuting attorney) of the city or province where the offense has been committed shall so notify the officer holding the offender in custody within ten days after his arrest, and in such a case the United States shall be free to exercise jurisdiction. If any offense falling under paragraph 2 of this Article is

committed by any member of the Armed Forces of the United States

(a) while engaged in the actual performance of a specific military duty, or

(b) during a period of national emergency declared by either Government and the fiscal (prosecuting attorney) so finds from the evidence, he shall immediately notify the officer holding the offender in custody that the United States is free to exercise jurisdiction. In the event the fiscal (prosecuting attorney) finds that the offense was not committed in the actual performance of a specific military duty, the offender's commanding officer shall have the right to appeal from such finding to the Secretary of Justice within ten days from the receipt of the decision of the fiscal and the decision of the Secretary of Justice shall be final.

5. In all cases over which the Philippines exercise jurisdiction the custody of the accused, pending trial and final judgment, shall be entrusted without delay to the commanding officer of the nearest base, who shall acknowledge in writing that such accused has been delivered to him for custody pending trial in a competent court of the Philippines and that he will be held ready to appear and will be produced before said court when required by it. The commanding officer shall be furnished by the fiscal (prosecuting attorney) with a copy of the information against the accused upon the filing of the original in the competent court.

6. Notwithstanding the foregoing provisions, it is mutually agreed that in time of war the United States shall have the right to exercise exclusive jurisdiction over any offenses which may be committed by members of the Armed Forces of the United States in the Philippines.

7. The United States agrees that it will not grant asylum in any of the bases to any person fleeing from the lawful jurisdiction of the Philippines. Should any such person be found in any base, he will be surrendered on demand to the competent authorities of the Philippines.

8. In every case in which jurisdiction over an offense is exercised by the United States, the offended party may institute a separate civil action against the offender in the proper court of the Philippines to enforce the civil liability which under the laws of the Philippines may arise from the offense.

ARTICLE XIV. *Arrest and service of process.*—

1. No arrest shall be made and no process, civil or criminal, shall be served within any base except with the permission of the commanding officer of such base; but should the commanding officer refuse to grant such permission he shall (except in cases of arrest where the United States has jurisdiction under Article XIII) forthwith take the necessary steps to arrest the person charged and surrender him to the appropriate authorities of the Philippines or to serve such process, as the case may be, and to provide the attendance of the server of such process before the appropriate court in the Philippines or procure such server to make the necessary affidavit or declaration to prove such service as the case may require.

2. In cases where the service courts of the United States have jurisdiction under Article XIII, the appropriate authorities of the Philippines will, on request, give reciprocal facilities as regards the service of process and the arrest and surrender of alleged offenders.

ARTICLE XV. *Security legislation.*—The Philippines agrees to take such steps as may from time to time be agreed to be necessary with a view to the

enactment of legislation to insure the adequate security and protection of the United States bases, equipment and other property and the operations of the United States under this Agreement, and the punishment of persons who may contravene such legislation. It is mutually agreed that appropriate authorities of the two Governments will also consult from time to time in order to insure that laws and regulations of the United States and of the Philippines in relation to such matter shall, so far as may be possible, be uniform in character.

ARTICLE XVI. *Postal facilities*.—It is mutually agreed that the United States shall have the right to establish and maintain United States post offices in the bases for the exclusive use of the United States forces and civilian personnel who are nationals of the United States and employed in connection with the construction, maintenance, and operation of the bases, and the families of such persons, for domestic use between United States post offices in the bases and between such post offices and other United States post offices. The United States shall have the right to regulate and control within the bases all communications within, to and from such bases.

ARTICLE XVII. *Removal of improvements*.—1. It is mutually agreed that the United States shall have the right to remove or dispose of any or all removable improvements, equipment or facilities located at or on any base and paid for with funds of the United States. No export tax shall be charged on any material or equipment so removed from the Philippines.

2. All buildings and structures, which are erected by the United States in the bases shall be the property of the United States and may be removed by it before the expiration of this Agreement or the earlier relinquishment of the base on which the structures

are situated. There shall be no obligation on the part of the United States or the Philippines to rebuild or repair any destruction or damage inflicted from any cause whatsoever on any of the said buildings or structures owned or used by the United States in the bases. The United States is not obligated to turn over the bases to the Philippines at the expiration of this Agreement or the earlier relinquishment of any bases in the condition in which they were at the time of their occupation, nor is the Philippines obliged to make any compensation to the United States for the improvements made in the bases or for the buildings or structures left thereon, all of which shall become the property of the Philippines upon the termination of the Agreement or the earlier relinquishment by the United States of the bases where the structures have been built.

ARTICLE XVIII. *Sales and Services Within the Bases.*—1. It is mutually agreed that the United States shall have the right to establish on bases, free of all licenses; fees; sales, excise or other taxes, or imposts; Government agencies, including concessions, such as sales commissaries and post exchanges, messes and social clubs, for the exclusive use of the United States military forces and authorized civilian personnel and their families. The merchandise or services sold or dispensed by such agencies shall be free of all taxes, duties and inspection by the Philippine authorities. Administrative measures shall be taken by the appropriate authorities of the United States to prevent the resale of goods which are sold under the provisions of this Article to persons not entitled to buy goods at such agencies and, generally, to prevent abuse of the privileges granted under this Article. There shall be cooperation

between such authorities and the Philippines to this end.

2. Except as may be provided in any other agreements, no person shall habitually render any professional services in a base except to or for the United States or to or for the persons mentioned in the preceding paragraph. No business shall be established in a base, it being understood that the Government agencies mentioned in the preceding paragraph shall not be regarded as businesses for the purposes of this Article.

ARTICLE XIX. *Commercial Concerns*.—It is mutually agreed that the United States shall have the right, with the consent of the Philippines, to grant to commercial concerns owned or controlled by citizens of the United States or of the Philippines such rights to the use of any base or facility retained or acquired by the United States as may be deemed appropriate by both Governments to insure the development and maintenance for defense purposes of such bases and facilities.

ARTICLE XX. *Military or Naval Police*.—It is mutually agreed that there shall be close cooperation on a reciprocal basis between the military and naval police forces of the United States and the police forces of the Philippines for the purpose of preserving order and discipline among United States military and naval personnel.

ARTICLE XXI. *Temporary Installations*.—1. It is mutually agreed that the United States shall retain the right to occupy temporary quarters and installations now existing outside the bases mentioned in Annex A and Annex B for such reasonable time, not exceeding two years, as may be necessary to develop adequate facilities within the bases for the United States Armed Forces. If circumstances require an extension of time, such a period will be fixed

by mutual agreement of the two Governments; but such extensions shall not apply to the existing temporary quarters and installations within the limits of the City of Manila and shall in no case exceed a period of three years.

2. Notwithstanding the provisions of the preceding paragraph, the port of Manila reservation with boundaries as of 1941 will be available for use to the United States Armed Forces until such time as other arrangements can be made for supply of the bases by mutual agreement of the two Governments.

3. The terms of this Agreement pertaining to bases shall be applicable to temporary quarters and installations referred to in paragraph one of this Article while they are so occupied by the Armed Forces of the United States; provided, that offenses committed within the temporary quarters and installations located within the present limits of the City of Manila shall not be considered as offenses within the bases but shall be governed by the provisions of Article thirteen, paragraphs two and four, except that the election not to exercise the jurisdiction reserved to the Philippines shall be made by the Secretary of Justice. It is agreed that the United States shall have full use and full control of all these quarters and installations while they are occupied by the Armed Forces of the United States, including the exercise of such measures as may be necessary to police quarters for the security of the personnel and property therein.

ARTICLE XXII. *Condemnation or Expropriation.*—

1. Whenever it is necessary to acquire by condemnation or expropriation proceedings real property belonging to any private persons, associations or corporations located in bases named in Annex A and Annex B in order to carry out the purposes of this Agreement, the Philippines will institute and prose-

cute such condemnation or expropriation proceedings in accordance with the laws of the Philippines. The United States agrees to reimburse the Philippines for all the reasonable expenses, damages and costs thereby incurred, including the value of the property as determined by the Court. In addition, subject to the mutual agreement of the two Governments, the United States will reimburse the Philippines for the reasonable costs of transportation and removal of any occupants displaced or ejected by reason of the condemnation or expropriation.

2. Prior to the completion of such condemnation or expropriation proceedings, in cases of military necessity the United States shall have the right to take possession of such property required for military purposes as soon as the legal requisites for obtaining possession have been fulfilled.

3. The properties acquired under this Article shall be turned over to the Philippines upon the expiration of this Agreement, or the earlier relinquishment of such properties, under such terms and conditions as may be agreed upon by the two Governments.

ARTICLE XXIII. *Civil Liability*.—For the purpose of promoting and maintaining friendly relations by the prompt settlement of meritorious claims, the United States shall pay just and reasonable compensation, when accepted by claimants in full satisfaction and in final settlement, for claims, including claims of insured but excluding claims of subrogees, on account of damage to or loss or destruction of private property, both real and personal or personal injury or death of inhabitants of the Philippine Islands, when such damage, loss, destruction or injury is caused by the Armed Forces of the United States, or individual members thereof, including military or civilian employees thereof, or otherwise

incident to non-combat activities of such forces; provided that no claim shall be considered unless presented within one year after the occurrence of the accident or incident out of which such claim arises.

ARTICLE XXIV. *Mineral Resources*.—All minerals (including oil), and antiquities and all rights relating thereto and to treasure trove, under, upon, or connected with the land and water comprised in the bases or otherwise used or occupied by the United States by virtue of this Agreement, are reserved to the Government and inhabitants of the Philippines; but no rights so reserved shall be transferred to third parties, or exercised within the bases, without the consent of the United States. The United States shall negotiate with the proper Philippine authorities for the quarrying of rock and gravel necessary for construction work on the bases.

ARTICLE XXV. *Grant of Bases to a Third Power*.—The Philippines agrees that it shall not grant, without prior consent of the United States, any bases or any rights, power, or authority whatsoever, in or relating to bases, to any third power.

2. It is further agreed that the United States shall not, without the consent of the Philippines, assign, or underlet, or part with the possession of the whole or any part of any base, or of any right, power or authority granted by this Agreement, to any third power.

ARTICLE XXVI. *Definition of Bases*.—For the purposes of this Agreement, bases are those areas named in Annex A and Annex B and such additional areas as may be acquired for military purposes pursuant to the terms of this Agreement.

ARTICLE XXVII. *Voluntary Enlistment of Philippine Citizens*.—It is mutually agreed that the United States shall have the right to recruit citizens of the

Philippines for voluntary enlistment into the United States Armed Forces for a fixed term of years and to train them and to exercise the same degree of control and discipline over them as is exercised in the case of other members of the United States Armed Forces. The number of such enlistments to be accepted by the Armed Forces of the United States may from time to time be limited by agreement between the two Governments.

ARTICLE XXVIII. *United States Reserve Organizations.*—It is mutually agreed that the United States shall have the right to enroll and train all eligible United States citizens residing in the Philippines in the reserve organizations of the Armed Forces of the United States, which include the Officers Reserve Corps and the Enlisted Reserve Corps, except that prior consent of the Philippines shall be obtained in the case of such persons who are employed by the Philippines or any municipal or provincial government thereof.

ARTICLE XXIX. *Term of Agreement.*—The present Agreement shall enter into force upon its acceptance by the two Governments and shall remain in force for a period of ninety-nine years subject to extension thereafter as agreed by the two Governments.

Signed in Manila, P. I., in duplicate this 14th day of March, 1947.

On behalf of the Government of the United States of America:

PAUL V. McNUTT,
*United States Ambassador to the
Republic of the Philippines.*

On behalf of the Government of the Republic of the Philippines:

MANUEL A. ROXAS,
*President of the Republic of the
Philippines.*

ANNEX "A"

Clark Field Airbase, Pampanga
Fort Stotsenberg, Pampanga
Mariveles Military Reservation, POL Terminal &
Training Area, Bataan
Camp John Hay Leave and Recreation Center,
Baguio
Army Communications System with the deletion of
all stations in the Port of Manila Area.
U. S. AF Cemetery No. 2, San Francisco, Delmonte,
Rizal
Angeles General Depot, Pampanga
Leyte-Samar Naval Base including shore installa-
tions and air bases
Subic Bay, No. West Shore Naval Base Zambales
Province and the existing naval reservation at
Olongapo and the existing Baguio naval reserva-
tion
Tawi Tawi Naval Anchorage and small adjacent
land areas
Canacao—Sanglely Point Navy Base, Cavite Pro-
vince
Bagobantay Transmitter Area, Quezon City, and
associated radio receiver and control sites, Manila
Area
Tarumpitao Point (Loran Master Transmitter Sta-
tion) (Palawan)
Talampulan Island, C. G. #354 (Loran) (Palawan)
Naule Point (Loran Station) (Zambales)
Castillejos, C. G. #356 (Zambales)

ANNEX "B"

Mactan Island Army and Navy Airbase
Florida Blanca Airbase, Pampanga
Aircraft Service Warning Net
Camp Wallace, San Fernando, La Union

Puerta Princesa Army and Navy Air Base including
Navy Section Base and Air Warning Sites, Palawan
Tawi Tawi Naval Base, Sulu Archipelago
Aparri Naval Air Base.

**(14) Agreement on Military Assistance, Manila,
21 March 1947**

(Text supplied by the Department of State)

Considering the desire of the Government of the Republic of the Philippines to obtain assistance in the training and development of its armed forces and the procurement of equipment and supplies therefor during the period immediately following the independence of the Philippines, considering the Agreement between the United States of America and the Republic of the Philippines concerning military bases, signed March 14, 1947, and in view of the mutual interest of the two Governments in matters of common defense, the President of the United States of America has authorized the rendering of military assistance to the Republic of the Philippines toward establishing and maintaining national security and toward forming a basis for participation by that Government in such defensive military operations as the future may require, and to attain these ends the Governments of the United States of America and the Republic of the Philippines have agreed as follows:

TITLE I. PURPOSE AND DURATION

ARTICLE 1. Subject to mutual agreements, the Government of the United States of America will furnish military assistance to the Government of the Republic of the Philippines in the training and development of armed forces and in the performance of other services essential to the fulfillment of those

obligations which may devolve upon the Republic of the Philippines under its international agreements including commitments assumed under the United Nations and to the maintenance of the peace and security of the Philippines, as provided in Title II, Article 6, hereof.

ARTICLE 2.—This Agreement shall continue for a period of five years from July 4, 1946, unless previously terminated or extended as hereinafter provided.

ARTICLE 3.—If the Government of the Republic of the Philippines should desire that this Agreement be extended beyond the stipulated period, it shall make a written proposal to that effect at least one year before the expiration of this Agreement.

ARTICLE 4.—This Agreement may be terminated before the expiration of the period of five years prescribed in Article 2, or before the expiration of an extension authorized in Article 3, by either Government, subject to three months' written notice to the other Government.

ARTICLE 5.—It is agreed on the part of the Government of the Republic of the Philippines that title to all arms, vessels, aircraft, equipment and supplies, expendable items excepted, that are furnished under this Agreement on a non-reimbursable basis shall remain in the United States of America.

TITLE II. GENERAL

ARTICLE 6.—For the purposes of this Agreement the military assistance authorized in Article 1 hereof is defined as the furnishing of arms, ammunition, equipment and supplies; certain aircraft and naval vessels, and instruction and training assistance by the Army and Navy of the United States and shall include the following:

(a) Establishing in the Philippines of a United States Military Advisory Group composed of an Army group, a Navy group and an Air group to assist and advise the Republic of the Philippines on military and naval matters;

(b) Furnishing from United States sources equipment and technical supplies for training, operations and certain maintenance of Philippine armed forces of such strength and composition as mutually agreed upon;

(c) Facilitating the procurement by the Government of the Republic of the Philippines of a military reserve of United States equipment and supplies, in such amounts as may be subsequently agreed upon;

(d) Making available selected facilities of United States Army and Navy training establishments to provide training for key personnel of the Philippine armed forces, under the conditions hereinafter described.

TITLE III. MILITARY ADVISORY GROUP

ARTICLE 7.—The Military Advisory Group shall consist of such number of United States military personnel as may be agreed upon by the Governments of the United States of America and the Republic of the Philippines.

ARTICLE 8.—The functions of the Military Advisory Group shall be to provide such advice and assistance to the Republic of the Philippines as has been authorized by the Congress of the United States of America and as is necessary to accomplish the purposes set forth in Article 1 of this Agreement.

ARTICLE 9.—Each member of the Military Advisory Group shall continue as a member of the branch of the armed forces of the United States to which he belongs and serve with that group in the rank, grade or rating he holds in the armed forces

of the United States and shall wear the uniform thereof, as provided in current regulations. Officers and enlisted men so detailed are authorized to accept from the Government of the Republic of the Philippines offices and such pay and emoluments thereunto appertaining as may be offered by that Government and approved by the appropriate authorities of the United States, such compensation to be accepted by the United States Government for remittance to the individual if in the opinion of the appropriate authorities of the United States such course appears desirable.

ARTICLE 10.—Members of the Military Advisory Group shall serve under the direction of the authorities of the United States of America.

ARTICLE 11.—All members of the Group shall be on active duty and shall be paid regularly authorized pay and allowances by the Government of the United States of America, plus a special allowance to compensate for increased costs of living.

This special allowance shall be based upon a scale agreed upon by the Governments of the United States of America and the Republic of the Philippines and shall be revised periodically. The Government of the Republic of the Philippines shall reimburse the Government of the United States of America for the special allowances provided for in this Article. The special allowance shall be applicable for the entire period each member of the group resides in the Philippines on duty with the Group, except as specified elsewhere in this Agreement.

ARTICLE 12.—The Government of the Republic of the Philippines agrees to extend to the Military Advisory Group the same exemptions and privileges granted by Articles V, XII and XVIII of the Agreement Between the United States of America and the

Republic of the Philippines Concerning Military Bases, signed March 14, 1947.

ARTICLE 13.—Except as may be otherwise subsequently agreed by the two Governments, the expense of the cost of transportation of each member of the Military Advisory Group, his dependents, household effects, and belongings to and from the Philippines shall be borne by the Government of the United States of America to the extent authorized by law. Members of the Group shall be entitled to compensation for expenses incurred in travel in the Republic of the Philippines on official business of the Group and such expenses shall be reimbursed to the Government of the United States of America by the Government of the Republic of the Philippines except for expenses of travel by the transportation facilities of the Group.

ARTICLE 14.—The Government of the Republic of the Philippines shall provide, and defray the cost of, suitable living quarters for personnel of the Military Advisory Group and their families and suitable buildings and office space for use in the conduct of the official business of the Military Advisory Group. All living and office quarters shall conform to the standards prescribed by the United States military services for similar quarters. Official supplies and equipment of American manufacture required by the Group shall be furnished by the Government of the United States of America which shall be reimbursed for the cost thereof by the Government of the Republic of the Philippines. Official supplies and equipment of other than American manufacture shall be provided without cost by the Government of the Republic of the Philippines. The cost of all services required by the Group, including compensation of locally employed interpreters, clerks, laborers, and other personnel, except

personal servants, shall be borne by the Government of the Republic of the Philippines.

ARTICLE 15.—All communications between the Military Advisory Group and the Republic of the Philippines involving matters of policy shall be through the Ambassador of the United States of America to the Philippines or the Chargé d’Affaires.

ARTICLE 16.—(a) The provisions of Articles XIII and XXI of the Agreement of March 14, 1947 between the United States of America and the Republic of the Philippines Concerning Military Bases are applicable to the Military Advisory Group, it being agreed that the Headquarters of the Military Advisory Group will be considered a temporary installation under the provisions of Article XXI of the Agreement aforementioned.

(b) The Chief of the Military Advisory Group, and not to exceed six (6) other senior members of the group to be designated by him, will be accorded diplomatic immunity.

TITLE IV. LOGISTICAL ASSISTANCE

ARTICLE 17.—The decision as to what supplies, services, facilities, equipment and naval vessels are necessary for military assistance shall be made by agreement between the appropriate authorities of the United States and the Republic of the Philippines.

ARTICLE 18.—Certain initial equipment, supplies and maintenance items shall be furnished gratuitously by the United States in accordance with detailed arrangements to be mutually agreed upon. Additional equipment and supplies other than those surplus to the needs of the United States required in the furtherance of military assistance shall be furnished by the United States subject to reimbursement by the Republic of the Philippines on terms to be mutually agreed upon. All items of arms, muni-

tions, equipment and supplies originating from sources other than those surplus to the needs of the United States shall be furnished only when the requisite funds have been specifically appropriated by the Congress of the United States.

ARTICLE 19.—The government of the Republic of the Philippines agrees that it will not relinquish physical possession or pass the title to any and all arms, munitions, equipment, supplies, naval vessels and aircraft furnished under this Agreement without the specific consent of the Government of the United States.

ARTICLE 20.—Military equipment, supplies and naval vessels necessary in connection with the carrying out of the full program of military assistance to the Republic of the Philippines shall be provided from United States and Philippine sources in so far as practicable and the Government of the Republic of the Philippines shall procure arms, ammunition, military equipment and naval vessels from governments or agencies other than the United States of America only on the basis of mutual agreement between the Government of the United States of America and the Government of the Republic of the Philippines. The Government of the Republic of the Philippines shall procure United States military equipment, supplies and naval vessels only as mutually agreed upon.

TITLE V. TRAINING ASSISTANCE

ARTICLE 21.—As part of the program of military assistance the Government of the Republic of the Philippines shall be permitted to send selected students to designated technical and service schools of the ground, naval and air services of the United States. Such students shall be subject to the same

regulations as are United States students and may be returned to the Philippines, without substitution, for violation of such regulations. Numbers of students and detailed arrangements shall be mutually agreed upon and shall be kept at a minimum for essential requirements. All Philippine requests for military training of Filipino personnel shall be made to the Government of the United States through the Military Advisory Group.

TITLE VI. SECURITY

ARTICLE 22.—Disclosures and exchanges of classified military equipment and information of any security classification to or between the Government of the United States of America and the Government of the Republic of the Philippines will be with the mutual understanding that the equipment and information will be safeguarded in accordance with the requirements of the military security classification established thereon by the originating Government and that no redisclosure by the recipient Government of such equipment and information to third governments or unauthorized personnel will be made without specific approval of the originating Government.

ARTICLE 23.—So long as this Agreement, or any extension thereof, is in effect the Government of the Republic of the Philippines shall not engage or accept the services of any personnel of any Government other than the United States of America for duties of any nature connected with the Philippine armed forces, except by mutual agreement between the Government of the United States of America and the Government of the Republic of the Philippines.

TITLE VII

In witness whereof, the Undersigned, duly authorized thereto, have signed this Agreement in duplicate, in the City of Manila, this twenty-first day of March, 1947.

For the Government of the United States of America:

PAUL V. McNUTT,
Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Philippines

For the Government of the Republic of the Philippines:

MANUEL ROXAS,
President of the Philippines.

THE SOUTH PACIFIC COMMISSION

NOTE.—The agreement concerning the establishment of the South Pacific Commission was drawn up at the South Seas Conference held at Canberra, 28 January—6 February 1947. It is modeled in a general way upon the Agreement of 30 October 1946, relating to the Caribbean Commission. The South Seas Conference further drew up a series of immediate projects to which it recommended that early consideration be given by the South Pacific Commission.

BIBLIOGRAPHY: Emil J. Sady, Report on the South Seas Conference, 16 Department of State Bulletin 459.

(15) Agreement Establishing the South Pacific Commission, Canberra, 6 February 1947*

(Text supplied by the Department of State)

The Governments of Australia, the French Republic, the Kingdom of the Netherlands, New Zealand, the United Kingdom of Great Britain and Northern Ireland, and the United States of America (hereinafter referred to as “the participating Governments”),

Desiring to encourage and strengthen international co-operation in promoting the economic and social welfare and advancement of the peoples of the non-self-governing territories in the South Pacific region administered by them,

Have through their duly authorised representatives met together in Canberra made an Agreement in the following terms:

ARTICLE I. *Establishment of the Commission*.—1. There is hereby established the South Pacific Commission (hereinafter referred to as “the Commission”).

ARTICLE II. *Territorial Scope*.—2. The territorial scope of the Commission shall comprise all those non-self-governing territories in the Pacific Ocean which are administered by the participating Governments

*Not in force 1 October 1947.

and which lie wholly or in part south of the Equator and east from and including Netherlands New Guinea.

3. The territorial scope of the Commission may be altered by agreement of all the participating Governments.

ARTICLE III. *Composition of the Commission.*—The Commission shall consist of not more than twelve Commissioners. Each participating Government may appoint two Commissioners and shall designate one of them as its senior Commissioner.

5. Each participating Government may appoint such alternates and advisers to its Commissioners as it considers desirable.

ARTICLE IV. *Powers and Functions.*—6. The Commission shall be a consultative and advisory body to the participating Governments in matters affecting the economic and social development of the non-self-governing territories within the scope of the Commission and the welfare and advancement of their peoples. To this end, the Commission shall have the following powers and functions:

(a) to study, formulate and recommend measures for the development of, and where necessary the co-ordination of services affecting, the economic and social rights and welfare of the inhabitants of the territories within the scope of the Commission, particularly in respect of agriculture (including animal husbandry), communications, transport, fisheries, forestry, industry, labour, marketing, production, trade and finance, public works, education, health, housing and social welfare;

(b) to provide for and facilitate research in technical, scientific, economic and social fields in the territories within the scope of the Commission and

to ensure the maximum co-operation and co-ordination of the activities of research bodies;

(c) to make recommendations for the co-ordination of local projects in any of the fields mentioned in the previous sub-paragraphs which have regional significance and for the provision of technological assistance from a wider field not otherwise available to a territorial administration;

(d) to provide technical assistance, advice and information (including statistical and other material) for the participating Governments;

(e) to promote co-operation with non-participating Governments and with non-governmental organisations of a public or quasi-public character having common interests in the area, in matters within the competence of the Commission;

(f) to address inquiries to the participating Governments on matters within its competence;

(g) to make recommendations with regard to the establishment and activities of auxiliary and subsidiary bodies;

7. The Commission may discharge such other functions as may be agreed upon by the participating Governments.

8. The Commission may make such administrative arrangements as may be necessary for the exercise of its powers and the discharge of its functions.

9. With a view to facilitating the inauguration of the work of the Commission in matters immediately affecting the economic and social welfare of the local inhabitants of the territories within the scope of the Commission, the Commission shall give early consideration to the projects set forth in the resolution (appended to this Agreement) relating to important immediate projects adopted by the South Seas Conference at Canberra, Australia, on February 6, 1947.

10. The participating Governments undertake to

secure such legislative and administrative provision as may be required to ensure that the Commission will be recognised in their territories as possessing such legal capacity and as being entitled to such privileges and immunities (including the inviolability of its premises and archives) as are necessary for the independent exercise of its powers and discharge of its functions.

ARTICLE V. *Procedure of the Commission.*—11. Irrespective of the place of meeting, each senior Commissioner shall preside over sessions of the Commission in rotation, according to the English alphabetical order of the participating Governments.

12. The Commission may meet at such times and in such places as it may determine. It shall hold two regular sessions in each year, and such further sessions as it may decide.

13. At a meeting of the Commission two-thirds of all the senior Commissioners shall constitute a quorum.

14. The decisions of the Commission shall be taken in accordance with the following rules:—

(a) senior Commissioners only shall be entitled to vote;

(b) procedural matters shall be decided by a majority of the senior Commissioners present and voting;

(c) decisions on budgetary or financial matters which may involve a financial contribution by the participating Governments (other than a decision to adopt the annual administrative budget of the Commission), shall require the concurring votes of all the senior Commissioners;

(d) decisions on all other matters (including a decision to adopt the annual administrative budget of the Commission) shall require the concurring votes of two-thirds of all the senior Commissioners.

15. In the absence of a senior Commissioner, his functions shall be discharged for all purposes of this Article by the other Commissioner appointed by his Government or, in the absence of both, by an alternate designated by his Government or the senior Commissioner.

16. The Commission may appoint Committees and, subject to the provisions of this Agreement, may promulgate rules of procedure and other regulations governing the operations of the Commission, of its auxiliary and subsidiary bodies and such Committees as it shall establish, and of the Secretariat and generally for the purpose of carrying into effect the terms of this Agreement.

17. The official languages of the Commission and its auxiliary and subsidiary bodies, shall include English and French.

18. The Commission, shall make to each of the participating Governments, and publish, an annual report on its activities, including those of its auxiliary and subsidiary bodies.

ARTICLE VI. *Research Council*.—19. In view of the special importance of research for the carrying out of the purposes of the Commission, there shall be established a Research Council which shall serve as a standing advisory body auxiliary to the Commission.

ARTICLE VII. *Composition of the Research Council*.—20. Members of the Research Council shall be appointed by the Commission on such terms and conditions as the Commission may decide.

21. (a) The Commission shall appoint, as members of the Research Council, such persons distinguished in the fields of research within the competence of the Commission as it considers necessary for the discharge of the Council's functions.

(b) Among the members of the Council so appointed there shall be a small number of persons

highly qualified in the several fields of health, economic development and social development who shall devote their full time to the work of the Research Council.

22. The Research Council shall elect a Chairman from its members.

23. The Commission shall appoint a full-time official who shall direct research and be charged with the general responsibility for supervising the execution of the programme of the Research Council. He shall be, *ex officio*, a member and the Deputy Chairman of the Council and, subject to the directions of the Commission, shall be responsible for arranging and facilitating co-operative research, for arranging and carrying out research projects of a special nature, for collecting and disseminating information concerning research and for facilitating the exchange of experience among research workers of the area. He shall be responsible to the Secretary-General for all administrative matters connected with the work of the Research Council and of its Committees.

24. In all technical matters full-time members shall be under the direction of the Deputy Chairman of the Research Council. In all administrative matters they shall be responsible to the Secretary-General.

25. Recommendations of the Research Council in connection with research projects to be undertaken shall be first submitted to the Commission for approval.

ARTICLE VIII.—*Functions of the Research Council*.—26. The functions of the Research Council shall be:

(a) to maintain a continuous survey of research needs in the territories within the scope of the Com-

mission and to make recommendations to the Commission on research to be undertaken;

(b) to arrange, with the assistance of the Secretary-General, for the carrying out of the research studies approved by the Commission, using existing institutions where appropriate and feasible;

(c) to co-ordinate the research activities of other bodies working within the field of the Commission's activities and, where possible, to avail itself of the assistance of such bodies;

(d) to appoint technical standing research committees to consider problems in particular fields of research;

(e) to appoint, with the approval of the Commission, *ad hoc* research committees to deal with special problems;

(f) to make to each session of the Commission a report of its activities.

ARTICLE IX. *The South Pacific Conference*.—27. In order to associate with the work of the Commission representatives of the local inhabitants of, and of official and non-official institutions directly concerned with, the territories within the scope of the Commission, there shall be established a South Pacific Conference with advisory powers as a body auxiliary to the Commission.

ARTICLE X.—*Sessions of the Conference*.—28. A session of the South Pacific Conference shall be convoked within two years after this Agreement comes into force, and thereafter at intervals not exceeding three years.

29. Each session of the Conference shall be held in one of the territories within the scope of the Commission at a place designated by the Commission with due regard to the principle of rotation.

30. The Chairman of each session of the Confer-

ence shall be one of the Commissioners of the Government in whose territory the session is held.

31. The Secretary-General shall be responsible for the administrative arrangements of the Conference.

32. The Commission shall adopt rules of procedure for the Conference and approve the agenda for each session of the Conference. The Secretary-General shall prepare the necessary documents for consideration by the Commission.

33. The Conference may make recommendations to the Commission on procedural questions affecting its sessions. It may also recommend to the Commission the inclusion of specific items on the agenda for the Conference.

ARTICLE XI. *Composition of the Conference.*—34. Delegates to the Conference shall be appointed for each territory which is within the scope of the Commission and which is designated for this purpose by the Commission. The maximum number of delegates for each territory shall be determined by the Commission. In general, the representation shall be at least two delegates for each designated territory.

35. Delegates shall be selected in such a manner as to ensure the greatest possible measure of representation of the local inhabitants of the territory.

36. Delegates shall be appointed for each designated territory in accordance with its constitutional procedure.

37. The delegation for each designated territory may include alternate delegates and as many advisers as the appointing authority considers necessary.

ARTICLE XII. *Functions of the Conference.*—38. The Conference may discuss such matters of common interest as fall within the competence of the

Commission, and may make recommendations to the Commission on any such matters.

ARTICLE XIII. *The Secretariat*.—39. The Commission shall establish a Secretariat to serve the Commission and its auxiliary and subsidiary bodies.

40. The Commission shall, subject to such terms and conditions as it may prescribe, appoint a Secretary-General and a Deputy Secretary-General. They shall hold office for five years unless their appointments are earlier terminated by the Commission. They shall be eligible for re-appointment.

41. The Secretary-General shall be the chief administrative officer of the Commission and shall carry out all directions of the Commission. He shall be responsible for the functioning of the Secretariat, and shall be empowered, subject to such directions as he may receive from the Commission, to appoint and dismiss, as necessary, members of the staff of the Secretariat.

42. In the appointment of the Secretary-General, the Deputy Secretary-General and the staff of the Secretariat, primary consideration shall be given to the technical qualifications and personal integrity of candidates. To the fullest extent consistent with this consideration, the staff of the Secretariat shall be appointed from the local inhabitants of the territories within the scope of the Commission and with a view to obtaining equitable national and local representation.

43. Each participating Government undertakes so far as possible under its constitutional procedure to accord to the Secretary-General, to the Deputy Secretary-General, to the full time members of the Research Council and to appropriate members of the staff of the Secretariat such privileges and immunities as may be required for the independent discharge of their functions. The Commission may make

recommendations with a view to determining the details of the application of this paragraph or may propose conventions to the participating Governments for this purpose.

44. In the performance of their duties, the Secretary-General, the Deputy Secretary-General, the full time members of the Research Council and the staff of the Secretariat shall not seek or receive instructions from any Government or from any other authority external to the Commission. They shall refrain from any action which might reflect on their position as international officials responsible only to the Commission.

45. Each participating Government undertakes to respect the exclusively international character of the responsibilities of the Secretary-General, the Deputy Secretary-General, the full time members of the Research Council, and the staff of the Secretariat, and not to seek to influence them in the discharge of their responsibilities.

ARTICLE XIV. *Finance*.—46. The Commission shall adopt an annual budget for the administrative expenses of the Commission and its auxiliary and subsidiary bodies, and such supplementary budgets as it may determine. The Secretary-General shall be responsible for preparing and submitting to the Commission for its consideration the annual administrative budget and such supplementary budgets as the Commission may require.

47. Except for the salaries, allowances and miscellaneous expenditures of the Commissioners and their immediate staffs, which shall be determined and paid by the respective Governments appointing them, the expenses of the Commission and its auxiliary and subsidiary bodies (including the expenses of delegates to the South Pacific Conference

on a scale approved by the Commission) shall be a charge on the funds of the Commission.

48. There shall be established, to meet the expenses of the Commission, a fund to which each participating Government undertakes, subject to the requirements of its constitutional procedure, to contribute promptly its proportion of the estimated expenditure of the Commission, as determined in the annual administrative budget and in any supplementary budgets adopted by the Commission.

49. The expenses of the Commission and its auxiliary and subsidiary bodies shall be apportioned among the participating Governments in the following proportions:—

	<i>Percent</i>
Australia.....	30
France.....	12½
The Netherlands.....	15
New Zealand.....	15
United Kingdom of Great Britain and Northern Ireland.....	15
United States of America.....	12½

Before the close of its second fiscal year, the Commission shall review the apportionment of expenses and recommend to the participating Governments such adjustments as it considers desirable. Adjustments may at any time be made by agreement of all the participating Governments.

50. The fiscal year of the Commission shall be the calendar year.

51. Subject to the directions of the Commission, the Secretary-General shall be responsible for the control of the funds of the Commission and of its auxiliary and subsidiary bodies and for all accounting and expenditure. Audited statements of accounts for each fiscal year shall be forwarded to each participating Government as soon as possible after the close of the fiscal year.

52. The Secretary-General, or an officer authorised by the Commission to act as Secretary-General pending the appointment of the Secretary-General, shall at the earliest practicable date after the coming into force of this Agreement submit to the Commission an administrative budget for the current fiscal year and any supplementary budgets which the Commission may require. The Commission shall thereupon adopt for the current fiscal year an administrative budget and such supplementary budget as it may determine.

53. Pending adoption of the first budget of the Commission, the administrative expenses of the Commission shall be met, on terms to be determined by the Commission, from an initial working fund of £40,000 sterling to which the participating Governments undertake to contribute in the proportions provided for in paragraph 49 of this Agreement.

54. The Commission may in its discretion accept for inclusion in its first budget any expenditure incurred by the Governments of Australia or New Zealand for the purpose of paragraph 64 of this Agreement. The Commission may credit any such expenditure against the contribution of the Government concerned. The aggregate of the amounts which may be so accepted and credited shall not exceed £5,000 sterling.

ARTICLE XV. *Relationship with Other International Bodies.*—55. The Commission and its auxiliary and subsidiary bodies, while having no organic connection with the United Nations, shall co-operate as fully as possible with the United Nations and with appropriate specialised agencies on matters of mutual concern within the competence of the Commission.

56. The participating Governments undertake to consult with the United Nations and the appropriate specialised agencies at such times and in such manner

as may be considered desirable, with a view to defining the relationship which may in future exist and to ensuring effective co-operation between the Commission, including its auxiliary and subsidiary bodies, and the appropriate organs of the United Nations and specialised agencies dealing with economic and social matters.

57. The Commission may make recommendations to the participating Governments as to the manner in which effect can best be given to the principles stated in this Article.

ARTICLE XVI.—*Headquarters*.—58. The permanent headquarters of the Commission and its auxiliary and subsidiary bodies shall be located within the territorial scope of the Commission at such place as the Commission may select. The Commission may establish branch offices and, except as otherwise provided in this Agreement, may make provision for the carrying on of any part of its work or the work of its auxiliary and subsidiary bodies at such place or places within or without the territorial scope of the Commission as it considers will most effectively achieve the objectives for which it is established. The Commission shall select the site of the permanent headquarters within six months after this Agreement comes into force. Pending the establishment of its permanent headquarters, it shall have temporary headquarters in or near Sydney, Australia.

ARTICLE XVII. *Saving Clause*.—59. Nothing in this Agreement shall be construed to conflict with the existing or future constitutional relations between any participating Government and its territories or in any way to affect the constitutional authority and responsibility of the territorial administrations.

ARTICLE XVIII. *Alteration of Agreement*.—60. The provisions of this Agreement may be amended by consent of all the participating Governments.

ARTICLE XIX. *Withdrawal*.—61. After the expiration of five years from the coming into force of this Agreement a participating Government may withdraw from the Agreement on giving one year's notice to the Commission.

62. If any participating Government ceases to administer non-self-governing territories within the scope of the Commission, that Government shall so notify the Commission and shall be deemed to have withdrawn from the Agreement as from the close of the then current calendar year.

63. Notwithstanding the withdrawal of a participating Government this Agreement shall continue in force as between the other participating Governments.

ARTICLE XX. *Interim Provisions*.—64. Preliminary arrangements for the establishment of the Commission shall be undertaken jointly by the Governments of Australia and New Zealand.

ARTICLE XXI. *Entry Into Force*.—65. The Governments of Australia, the French Republic, the Kingdom of the Netherlands, New Zealand, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall become parties to this Agreement by:

(a) signature without reservation, or

(b) signature *ad referendum* and subsequent acceptance. Acceptance shall be effected by notification to the Government of Australia. The Agreement shall enter into force when all the above-mentioned Governments have become parties to it.

66. The Government of Australia shall notify the other above-mentioned Governments of each acceptance of this Agreement, and also of the date on which the Agreement comes into force.

67. The Government of Australia shall on behalf

of all the participating Governments register this Agreement with the Secretariat of the United Nations in pursuance of Article 102 of the Charter of the United Nations.

This Agreement, of which the English, French and Netherlands texts are equally authentic, shall be deposited in the archives of the Government of Australia. Duly certified copies thereof shall be transmitted by the Government of Australia to the other participating Governments.

In witness whereof the duly authorised representatives of the respective participating Governments have signed this Agreement.

Opened in Canberra for signature on the sixth day of February, One thousand nine hundred and forty seven.

[The signatures on behalf of the participating Governments were *ad referendum*.]

III. THE MIDDLE EAST

THE LEAGUE OF ARAB STATES

NOTE.—Beginning in 1942, active negotiations were conducted among the Arab States with a view to forming an Arab Union. A preliminary committee of the General Arab Conference met in Alexandria from 25 September to 7 October 1944, and blocked out the lines to be followed in forming a league of the independent Arab States. The task of drafting a constitution was undertaken by the Foreign Ministers who met at Cairo 15 February to 3 March 1945. The pact adopted at Cairo on 22 March 1945 entered into force on 16 May 1945.

BIBLIOGRAPHY: Development of the Arab League. 16 Department of State Bulletin 693.

(16) Pact of the League of Arab States, Cairo, 22 March 1945

(Translation from 16 Department of State Bulletin 967-970)

His Excellency the President of the Syrian Republic;¹
His Royal Highness the Amir of Trans-Jordan;
His Majesty the King of Iraq;
His Majesty the King of Saudi Arabia;
His Excellency the President of the Lebanese Republic;
His Majesty the King of Egypt;
His Majesty the King of the Yemen;

Desirous of strengthening the close relations and numerous ties which link the Arab States;

And anxious to support and stabilize these ties upon a basis of respect for the independence and sovereignty of these states, and to direct their efforts toward the common good of all the Arab countries, the improvement of their status, the security of their future, the realization of their aspirations and hopes;

And responding to the wishes of Arab public opinion in all Arab lands;

Have agreed to conclude a Pact to that end and have appointed as their representatives * * * who, after having exchanged their plenary powers

¹ The listing follows the order of the Arabic alphabet.

which were found to be in good and due form, have agreed upon the following provisions:

ARTICLE 1.—The League of Arab States is composed of the independent Arab States which have signed this Pact.

Any independent Arab State has the right to become a member of the League. If it desires to do so, it shall submit a request which will be deposited with the Permanent Secretariat General and submitted to the Council at the first meeting held after submission of the request.

ARTICLE 2.—The League has as its purpose the strengthening of the relations between the member States; the coordination of their policies in order to achieve cooperation between them and to safeguard their independence and sovereignty; and a general concern with the affairs and interests of the Arab countries. It has also as its purpose the close cooperation of the member states, with due regard to the organization and circumstances of each state, on the following matters:

A. Economic and financial affairs, including commercial relations, customs, currency, and questions of agriculture and industry.

B. Communications; this includes railroads, roads, aviation, navigation, telegraphs, and posts.

C. Cultural affairs.

D. Nationality, passports, visas, execution of judgments, and extradition of criminals.

E. Social affairs.

F. Health problems.

ARTICLE 3.—The League shall possess a Council composed of the representatives of the member states of the League; each state shall have a single vote, irrespective of the number of its representatives.

It shall be the task of the Council to achieve the

realization of the objectives of the League and to supervise the execution of agreements which the member states have concluded on the questions enumerated in the preceding article, or on any other questions.

It likewise shall be the Council's task to decide upon the means by which the League is to cooperate with the international bodies to be created in the future in order to guarantee security and peace and regulate economic and social relations.

ARTICLE 4.—For each of the questions listed in Article 2 there shall be set up a special committee in which the member states of the League shall be represented. These committees shall be charged with the task of laying down the principles and extent of cooperation. Such principles shall be formulated as draft agreements, to be presented to the Council for examination preparatory to their submission to the aforesaid states.

Representatives of the other Arab countries may take part in the work of the aforesaid committees. The Council shall determine the conditions under which these representatives may be permitted to participate and the rules governing such representation.

ARTICLE 5.—Any resort to force in order to resolve disputes arising between two or more member states of the League is prohibited. If there should arise among them a difference which does not concern a state's independence, sovereignty, or territorial integrity, and if the parties to the dispute have recourse to the Council for the settlement of this difference, the decision of the Council shall then be enforceable and obligatory.

In such a case, the states between whom the difference has arisen shall not participate in the deliberations and decisions of the Council.

The Council shall mediate in all differences which threaten to lead to war between two member states, or a member state and a third state, with a view to bringing about their reconciliation.

Decisions of arbitration and mediation shall be taken by majority vote.

ARTICLE 6.—In case of aggression or threat of aggression by one state against a member state, the state which has been attacked or threatened with aggression may demand the immediate convocation of the Council.

The Council shall by unanimous decision determine the measures necessary to repulse the aggression. If the aggressor is a member state, his vote shall not be counted in determining unanimity.

If, as a result of the attack, the government of the state attacked finds itself unable to communicate with the Council, that state's representative in the Council shall have the right to request the convocation of the Council for the purpose indicated in the foregoing paragraph. In the event that this representative is unable to communicate with the Council, any member state of the League shall have the right to request the convocation of the Council.

ARTICLE 7.—Unanimous decisions of the Council shall be binding upon all member states of the League; majority decisions shall be binding only upon those states which have accepted them.

In either case the decisions of the Council shall be enforced in each member state according to its respective basic laws.

ARTICLE 8.—Each member state shall respect the systems of government established in the other member states and regard them as exclusive concerns of those states. Each shall pledge to abstain from any action calculated to change established systems of government.

ARTICLE 9.—States of the League which desire to establish closer cooperation and stronger bonds than are provided by this Pact may conclude agreements to that end.

Treaties and agreements already concluded or to be concluded in the future between a member state and another State shall not be binding or restrictive upon other members.

ARTICLE 10.—The permanent seat of the League of Arab States is established in Cairo. The Council may, however, assemble at any other place it may designate.

ARTICLE 11.—The Council of the League shall convene in ordinary session twice a year, in March and in October. It shall convene in extraordinary session upon the request of two member states of the League whenever the need arises.

ARTICLE 12.—The League shall have a permanent Secretariat General which shall consist of a Secretary General, Assistant Secretaries, and an appropriate number of officials.

The Council of the League shall appoint the Secretary General by a majority of two-thirds of the states of the League. The Secretary General, with the approval of the Council shall appoint the Assistant Secretaries and the principal officials of the League.

The Council of the League shall establish an administrative regulation for the functions of the Secretariat General and matters relating to the Staff.

The Secretary General shall have the rank of Ambassador and the Assistant Secretaries that of Ministers Plenipotentiary.

The first Secretary General of the League is named in an Annex to this Pact.¹

¹ His Excellency Abd-al-Rahman Azzam Pasha was appointed Secretary General for a period of two years.

ARTICLE 13.—The Secretary General shall prepare the draft of the budget of the League and shall submit it to the Council for approval before the beginning of each fiscal year.

The Council shall fix the share of the expenses to be borne by each state of the League. This share may be reconsidered if necessary.

ARTICLE 14.—The members of the Council of the League as well as the members of the committees and the officials who are to be designated in the administrative regulation shall enjoy diplomatic privileges and immunity when engaged in the exercise of their functions.

The buildings occupied by the organs of the League shall be inviolable.

ARTICLE 15.—The first meeting of the Council shall be convened at the invitation of the head of the Egyptian Government. Thereafter it shall be convened at the invitation of the Secretary General.

The representatives of the member states of the League shall alternately assume the presidency of the Council at each of its ordinary sessions.

ARTICLE 16.—Except in cases specifically indicated in this Pact, a majority vote of the Council shall be sufficient to make enforceable decisions on the following matters:

A. Matters relating to personnel.

B. Adoption of the budget of the League.

C. Establishment of the administrative regulations for the Council, the committees, and the Secretariat General.

D. Decisions to adjourn the sessions.

ARTICLE 17.—Each member state of the League shall deposit with the Secretariat General one copy of every treaty or agreement concluded or to be concluded in the future between itself and another member state of the League or a third state.

ARTICLE 18.—If a member state contemplates withdrawal from the League, it shall inform the Council of its intention one year before such withdrawal is to go into effect.

The Council of the League may consider any state which fails to fulfill its obligations under this Pact as having become separated from the League, this to go into effect upon a unanimous decision of the states, not counting the state concerned.

ARTICLE 19.—This Pact may be amended with the consent of two-thirds of the states belonging to the League, especially in order to make firmer and stronger the ties between the member states, to create an Arab Tribunal of Arbitration, and to regulate the relations of the League with any international bodies to be created in the future to guarantee security and peace.

Final action on an amendment cannot be taken prior to the session following the session in which the motion was initiated.

If a state does not accept such an amendment it may withdraw at such time as the amendment goes into effect, without being bound by the provisions of the preceding article.

ARTICLE 20.—This Pact and its Annexes shall be ratified according to the basic laws in force among the High Contracting Parties.

The instruments of ratification shall be deposited with the Secretariat General of the Council and the Pact shall become operative as regards each ratifying state fifteen days after the Secretary General has received the instruments of ratification from four states.

This Pact has been drawn up in Cairo in the Arabic language on this 8th day of Rabi' II, thirteen hundred and sixty-four (March 22, 1945), in one

copy which shall be deposited in the safe keeping of the Secretariat General.

An identical copy shall be delivered to each state of the League.

[Here follow the signatures.]

(1) Annex Regarding Palestine [not reproduced here].

(2) Annex Regarding Cooperation With Countries Which Are Not Members of the Council of the League [not reproduced here].

IV. THE WESTERN HEMISPHERE

THE CARIBBEAN COMMISSION

NOTE.—An Anglo-American Caribbean Commission was established on an informal basis on 9 March 1942, with a view to improving the economic and social development of the region. In 1945, it was enlarged to include members designated by France and the Netherlands, and its name was changed to Caribbean Commission. The secretariat of the Commission has its headquarters at Port-of-Spain, Trinidad. The Agreement of 30 October 1946, designed to place the Commission on a more formal basis, had not formally entered into force on 1 November 1947, but the Commission operates within its framework.

(17) Agreement for the Establishment of the Caribbean Commission, Washington, 30 October 1946 *

(British Parliamentary Papers Cmd. 6972)

The Governments of the French Republic, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, whose duly authorised representatives have subscribed hereto,

Being desirous of encouraging and strengthening co-operation among themselves and their territories with a view toward improving the economic and social well-being of the peoples of those territories, and

Being desirous of promoting scientific, technological, and economic development in the Caribbean area and facilitating the use of resources and concerted treatment of mutual problems, avoiding duplication in the work of existing research agencies, surveying needs, ascertaining what research has been done, facilitating research on a co-operative basis, and recommending further research, and

Having decided to associate themselves in the work heretofore undertaken by the Anglo-American Caribbean Commission, and

*The Agreement was approved by the United States on 5 March 1948.

Having agreed that the objectives herein set forth are in accord with the principles of the Charter of the United Nations,

Hereby agree as follows:

ARTICLE I. *Establishment of the Caribbean Commission and Auxiliary Bodies.*—There are hereby established the Caribbean Commission (hereafter referred to as “the Commission”) and, as auxiliary bodies of the Commission, the Caribbean Research Council and the West Indian Conference (hereinafter referred to as “the Research Council” and “the Conference” respectively).

ARTICLE II. *Composition of the Commission.*—1. The Commission shall consist of not more than sixteen Commissioners appointed by the Governments signatory hereto (hereinafter referred to as the “Member Governments”). Each Member Government may appoint four Commissioners and such alternates as it may deem necessary. Each such group of Commissioners shall form a national section of the Commission.

2. Each Member Government shall designate one of its Commissioners to be the Chairman of its national section. Each such Chairman, or in his absence, the Commissioner designated by him from his national section as his alternate, shall be a Co-Chairman of the Commission and shall preside over meetings of the Commission in rotation according to English alphabetical order of the Member Governments, irrespective of where a meeting of the Commission may be held.

ARTICLE III. *Powers of the Commission.*—The Commission shall be a consultative and advisory body and shall have such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

ARTICLE IV. *Functions of the Commission*.—The functions of the Commission shall be as follows:—

- (1) To concern itself with economic and social matters of common interest to the Caribbean area, particularly agriculture, communications, education, fisheries, health, housing, industry, labour, social welfare and trade.
- (2) To study, formulate and recommend on its own initiative, or as may be proposed by any of the Member or territorial Governments, by the Research Council or the Conference, measures, programmes and policies with respect to social and economic problems designed to contribute to the well-being of the Caribbean area. It shall advise the Member and territorial Governments on all such matters, and make recommendations for the carrying into effect of all action necessary or desirable in this connection.
- (3) To assist in co-ordinating local projects which have regional significance and to provide technical guidance from a wide field not otherwise available.
- (4) To direct and review the activities of the Research Council and to formulate its rules of procedure.
- (5) To provide for the convening of the sessions of the Conference, to formulate its rules of procedure, and to report to the Member Governments on Conference resolutions and recommendations.

ARTICLE V. *Meetings of the Commission*.—1. The Commission shall hold not less than two Commission meetings each year. It is empowered to convene

and hold meetings at any time and at any place it may decide.

2. At all such meetings the four Co-Chairmen, or their designated alternates, shall constitute a quorum.

ARTICLE VI. *Method of Arriving at Decisions.*—The Commission shall be empowered to determine the method of arriving at its decisions, providing that decisions other than those relating to procedure shall not be taken without the concurrence of the respective Co-Chairmen or their designated alternates.

ARTICLE VII. *The Research Council.*—The Research Council, together with such Research Committees as the Commission may establish, shall serve as an auxiliary body of the Commission with respect to scientific, technological, social and economic research for the benefit of the peoples of the Caribbean area.

ARTICLE VIII. *Composition of the Research Council.*—1. The Research Council shall consist of not less than seven and not more than fifteen members who shall be appointed by the Commission having special regard to their scientific competence. At least one member of each Research Committee shall be a member of the Research Council.

2. The Research Council shall elect a Chairman from among its members. A Deputy Chairman of the Research Council shall be appointed by the Commission and shall serve on the Central Secretariat.

3. The present composition of the Research Council and of its Research Committees shall be deemed to be effective from the 1st day of January, 1946.

ARTICLE IX. *Functions of the Research Council.*—The function of the Research Council shall be—

(a) To recommend to the Commission the number and functions of the technical Research Committees necessary to provide specialised scientific consideration of Caribbean research problems.

(b) In the interest of the Caribbean area to ascertain what research has been done, to survey needs, to advise concerning desirable research projects, to arrange and facilitate co-operative research, to undertake research assignments of a special nature which no other agency is able and willing to carry out, and to collect and disseminate information concerning research.

(c) To recommend to the Commission the holding of Research Council and Committee meetings and also of meetings of scientific, specialist and extension workers, and to facilitate an interchange of experience among the research workers of the Caribbean.

ARTICLE X. *The Conference*.—The Conference shall be an auxiliary body of the Commission. The continuity of its existence shall be ensured by means of regular sessions.

ARTICLE XI. *Composition of the Conference*.—

1. Each territorial Government shall be entitled to send to each session of the Conference not more than two delegates and as many advisers as it may consider necessary.

2. Delegates to the Conference shall be appointed for each territory in accordance with its constitutional procedure. The duration of their appointments shall be determined by the appointing Governments.

ARTICLE XII. *Functions of the Conference*.—The sessions of the Conference shall provide a regular means of consultation with and between the delegates from the territories on matters of common interest within the terms of reference of the Commission as described in Article IV hereof, and shall afford the opportunity to present to the Commission recommendations on such matters.

ARTICLE XIII. *Meetings of the Conference*.—1. The Commission shall convene the Conference at

least biennially, on such date as the Commission shall decide. The location of each session of the Conference, which shall be in one of the territories, shall be selected in rotation according to English alphabetical order of the Member Governments.

2. The Chairman of each session of the Conference shall be the Chairman of the national section of the Commission in whose territory the session is held.

ARTICLE XIV. *Central Secretariat*.—1. The Commission shall establish, at a place within the Caribbean area to be agreed upon by the Member Governments, a Central Secretariat to serve the Commission and its auxiliary bodies.

2. A Secretary-General and a Deputy Secretary-General shall be appointed by the Commission under such terms and conditions as it shall prescribe. On the occurrence of a vacancy in the office of Secretary-General the position shall not be filled, except for special reasons approved by the Commission, by a candidate of the same nationality as the outgoing Secretary-General, regard being had to the desirability of continuity in the administration of the Commission's business. It shall, however, be open to the Commission at its discretion to reappoint any Secretary-General for a further term. The Secretary-General shall be the chief administrative officer of the Commission and shall carry out all directives of the Commission.

3. The Secretary-General shall be responsible for the proper functioning of the Central Secretariat and shall be empowered, subject to such directions as he may receive from the Commission, to appoint and dismiss such staff as may be deemed necessary to ensure efficient conduct of Commission business, provided that the appointment and dismissal of the Assistants to the Secretary-General shall be subject to approval by the Commission.

4. In the appointment of the Secretary-General, officers and staff of the Central Secretariat, primary consideration shall be given to the technical qualifications and personal integrity of candidates and, to the extent possible consistent with this consideration, such officers and staff shall be recruited within the Caribbean area and with a view to obtaining a balanced national representation.

5. In the performance of their duties, the Secretary-General and the staff shall not seek, receive or observe instructions from any Government or from any other authority external to the Commission. They shall refrain from any action which might reflect on their position as international officials responsible only to the Commission.

6. Each Member Government undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

7. Each Member Government undertakes so far as possible under its constitutional procedure to accord to the Secretary-General and appropriate personnel of the Central Secretariat such privileges and immunities as are necessary for the independent exercise of their functions, including inviolability of premises and archives of the Central Secretariat. The Commission shall make recommendations with a view to determining the details of the application of this paragraph, or may propose conventions to the Member Governments for this purpose.

ARTICLE XV. *Finances*.—1. The salaries, allowances and miscellaneous expenditures of the Commissioners and their staffs, and of delegates and advisers to conferences, shall be determined and

paid by the respective Governments appointing them.

2. The Secretary-General shall prepare and submit to the Commission an annual budget and such supplementary budgets as may be required covering all other expenditures of the Commission, including those of the Research Council, the Conference, the Central Secretariat, special research projects, conferences, surveys and other similar activities under Commission auspices. Upon approval of the budget by the Commission, the total amount thereof shall be allocated among the Member Governments in proportions to be determined by agreement. A joint fund shall be established by the Member Governments for the use of the Commission in meeting the expenditures estimated in the said annual or supplementary budgets. Each Member Government shall undertake, subject to the requirements of its constitutional procedure, to contribute promptly to this fund such annual and supplementary sums as may be charged to each as agreed.

3. The fiscal year of the Commission shall be the calendar year. The first budget of the Commission shall cover the period from the date of the entry into force of this Agreement to and including the 31st day of December 1946.

4. The Secretary-General shall hold and administer the joint fund of the Commission and shall keep proper accounts thereof. The Commission shall make arrangements satisfactory to the Member Governments for the audit of its accounts. The audited statements shall be forwarded annually to each Member Government.

ARTICLE XVI. *Authority to Appoint Committees and Make Regulations.*—The Commission is hereby empowered to appoint committees, and subject to the provisions of this Agreement, to promulgate

rules of procedure and regulations governing the operations of the Commission, its auxiliary bodies, the Central Secretariat, and such committees as it shall establish, and generally for the purpose of carrying into effect the terms of this Agreement.

ARTICLE XVII. *Relationship with Non-Member Governments in the Area.*—The Commission and Research Council in their research projects and in the formulation of recommendations shall bear in mind the desirability of co-operation in social and economic matters with other Governments of the Caribbean area, not members of the Commission. The issuance of invitations to such Governments to participate in conferences or other meetings sponsored by the Commission shall be subject to approval by the Member Governments.

ARTICLE XVIII. *Relationship with United Nations and Specialised Agencies.*—1. The Commission and its auxiliary bodies, while having no present connection with the United Nations, shall co-operate as fully as possible with the United Nations and with appropriate specialised agencies on matters of mutual concern within the terms of reference of the Commission.

2. The Member Governments undertake to consult with the United Nations and the appropriate specialised agencies, at such times and in such manner as may be considered desirable, with a view to defining the relationship which shall exist and to ensuring effective co-operation between the Commission and its auxiliary bodies and the appropriate organs of the United Nations and specialised agencies, dealing with economic and social matters.

ARTICLE XIX. *Saving Clause.*—Nothing in this Agreement shall be construed to conflict with the existing or future constitutional relations between any Member Government and its territories or in

any way to affect the constitutional authority and responsibility of the territorial Governments.

ARTICLE XX. *Definitions*.—In this Agreement the expressions “territories” or “territorial Governments” shall be deemed to relate to the territories, possessions, colonies, or groups of colonies of the Member Governments in the Caribbean area or to the administrations or Governments thereof.

ARTICLE XXI. *Entry into Force*.—1. This Agreement shall enter into force when notices of approval thereof shall have been deposited by all four signatory Governments with the Government of the United States of America which shall notify the other signatory Governments of each such deposit and of the date of entry into force of the Agreement.

2. This Agreement shall have indefinite duration, provided that after an initial period of five years any Member Government may give notice at any time of withdrawal from the Commission. Such notice shall take effect one year after the date of its formal communication to the other Member Governments, but this Agreement shall continue in force with respect to the other Member Governments.

In witness whereof the duly authorized representatives of the respective Member Governments have signed this Agreement on the dates appearing opposite their signatures.

Opened for signature in Washington, on 30th October, 1946, and done in quadruplicate, in the English, French and Netherlands languages, each of which shall be equally authentic.

[Here follow the signatures of the representatives of the French Republic, the Kingdom of the Netherlands, the United Kingdom and the United States of America, the latter reserving the right to await Congressional consideration before giving notice of approval.]

NAVAL MISSIONS OF THE UNITED STATES

NOTE.—The United States maintains naval missions in three countries of South America, under agreements concluded with Brazil in 1942 and extended in 1946 (Treaties and Other International Acts Series 1559); with Chile in 1945 (Executive Agreement Series 468); and with Colombia in 1946. The text of the last-named agreement is reproduced as somewhat typical. Agreements for military missions were concluded by the United States with Costa Rica in 1945, with Guatemala in 1945, with Honduras in 1945, and with Venezuela in 1946; and for military aviation missions with Guatemala in 1945, with Peru in 1946, and with El Salvador in 1947.

(18) Agreement Between the Governments of the United States and Colombia, Washington, 14 October 1946

(Treaties and Other International Acts Series 1563)

In conformity with the request made by the Ambassador of the Republic of Colombia in Washington to the Secretary of State, the President of the United States of America, by virtue of the authority conferred by the Act of Congress of May 19, 1926, entitled "An Act To authorize the President to detail officers and enlisted men of the United States Army, Navy, and Marine Corps to assist the governments of the Latin-American Republics in military and naval matters," [1] as amended by the Act of May 14, 1935, [2] to include the Philippine Islands, has authorized the appointment of officers and enlisted men to constitute a Naval Mission to the Republic of Colombia under the conditions specified below:

TITLE I. PURPOSE AND DURATION

ARTICLE 1.—The purpose of this Naval Mission is to cooperate in an *advisory capacity* with the Director General and the officers of the Colombian Navy, wherever desired in the Republic of Colombia by the Ministry of War, with a view to enhancing the efficiency of the Colombian Navy.

ARTICLE 2.—This Mission shall continue for a

¹[44 Stat. 565.]

²[49 Stat. 218.]

period of four years from the date of the signing of this agreement by the accredited representatives of the Government of the United States of America and the Government of the Republic of Colombia unless sooner terminated or extended as hereinafter provided. Any member of the Mission may be recalled by the Government of the United States of America after the expiration of two years' service, in which case another member will be furnished in replacement, after mutual agreement between the two Governments.

ARTICLE 3.—If the Government of the Republic of Colombia should desire that the services of the Mission be extended in whole or in part beyond the period stipulated, it shall make a written proposal to that effect six months before the expiration of this agreement.

ARTICLE 4.—The present agreement may be terminated prior to the expiration of the period of four years prescribed in Article 2, or prior to the expiration of the extension authorized in Article 3, in the following manner:

- (a) By either Government, subject to three months' notice in writing to the other Government;
- (b) By the recall of the entire personnel of the Mission by the Government of the United States of America in the public interest of the United States of America;
- (c) In case of war between the Republic of Colombia and any other nation, or in the case of civil war in the Republic of Colombia;
- (d) In case of war between the United States of America and any other country.

TITLE II. COMPOSITION AND PERSONNEL

ARTICLE 5.—This Mission will consist of a Chief of Mission of the rank of Captain or Commander

on active service in the United States Navy and such other United States naval personnel as may subsequently be requested by the Ministry of War of Colombia through its authorized representative in Washington and agreed upon by the United States Navy Department.

TITLE III. DUTIES, RANK, AND PRECEDENCE

ARTICLE 6.—The duties of the Mission shall consist of such professional services, advice, and direction as may be agreed upon between the Minister of War of the Republic of Colombia and the Chief of the Naval Mission.

ARTICLE 7.—The performance of duty of all Mission personnel shall be under the direction of the Chief of Mission who will be responsible to the Minister of War and the Director General of the Navy.

ARTICLE 8.—Each member of the Mission shall retain the rank he holds in the United States Navy and shall wear the uniform of his rank in the United States Navy.

ARTICLE 9.—Each member of the Mission shall be entitled to all the benefits and prerogatives which the Colombian Navy regulations provide for Colombian Naval officers and enlisted men of corresponding rank.

ARTICLE 10.—The personnel of the Mission shall be governed by the disciplinary regulations of the United States Navy.

TITLE IV. COMPENSATION AND PERQUISITES

ARTICLE 11.—Each member of the Mission shall receive from the Government of the Republic of Colombia the net annual compensation computed in currency of the United States of America that may

be agreed upon between the United States of America and the Republic of Colombia. Personnel of the Mission shall be classified in four categories, to wit:

- (a) Chief of Mission
- (b) Assistant Chief of Mission
- (c) Other Commissioned Officers
- (d) Chief Warrant, Warrant, and Petty Officers.

This compensation shall be paid in twelve equal monthly payments, each due and to be paid on the last day of the month. These payments, when effected within the Republic of Colombia, may be made in Colombian currency computed at the current official rate of exchange for dollars. Payments which are effected outside the Republic of Colombia shall be made in currency of the United States of America. The said compensation shall not be subject to any Colombian tax, or to a tax by any political subdivision of the Republic of Colombia, that is now or shall hereafter be imposed. Should there, however, at present or while this agreement is in effect, be any taxes that might affect the said compensation, such taxes shall be paid by the Ministry of War of Colombia in order to comply with the foregoing provisions that the stipulated compensation shall be net.

ARTICLE 12.—The compensation agreed upon as indicated in the preceding Article shall commence upon the date of departure from the United States of America of each member of the Mission, and, except as otherwise expressly provided in the present agreement, shall continue, following the termination of duty with the Mission, for the return voyage to a customary port of entry into the United States of America, and thereafter for the period of any accumulated leave which may be due.

ARTICLE 13.—The compensation due for the period of the return voyage and accumulated leave shall be

paid to a detached member of the Mission prior to his departure from the Republic of Colombia, and such payment shall be computed for travel via the shortest usually traveled route regardless of the route and method of travel used by the said detached member.

ARTICLE 14.—Each member of the Mission and his family shall be furnished by the Government of the Republic of Colombia with first-class accommodations for travel, via the shortest usually traveled route, required and performed under this agreement, between the port of embarkation in the United States of America and his official residence in the Republic of Colombia, both for the outward and the return voyage. All expenses of shipment and transportation of household effects, baggage, and automobile of each member of the Mission between the port of embarkation in the United States of America and his official residence in the Republic of Colombia shall be paid in the same manner by the Government of the Republic of Colombia. Transportation of such household effects, baggage, and automobile shall be effected in one shipment, and all subsequent shipments shall be at the expense of the respective members of the Mission except as otherwise provided in this Agreement, or when such shipments are necessitated by circumstances beyond their control. Payment of expenses for the transportation of families, household effects, and automobiles, and of the extra compensation prescribed in Article 15, below, in the case of personnel who may join the Mission for temporary duty at the request of the Minister of War of the Republic of Colombia, shall not be required under this agreement, but shall be determined by negotiations between the United States Navy Department and the authorized representative of the Ministry of War of the Republic of Colombia in Washington at

such time as the detail of personnel for such temporary duty may be agreed upon.

ARTICLE 15.—An additional allowance of one month's compensation, but of not less than two hundred United States dollars (\$200.00), shall be provided by the Government of the Republic of Colombia to each member of the Mission to cover extra expenses involved in change of residence from the United States of America to the Republic of Colombia. An equal additional allowance shall be paid to each member for expenses incident to change of residence from the Republic of Colombia to the United States of America upon completion of duty with the Mission.

ARTICLE 16.—The Government of the Republic of Colombia shall grant, upon request of the Chief of the Mission, free entry for articles for the personal use of the members of the Mission and their families and exemption from tax on motor fuel used in official Mission cars.

ARTICLE 17.—If the services of any member of the Mission should be terminated prior to the completion of two years' service by action of the Government of the United States of America, except in accordance with the provisions of Article 4 (c), the provisions of Articles 14 and 15 shall not apply to the return voyage. If the services of any member of the Mission should terminate or be terminated prior to the completion of two years' service for any other reason, including those set forth in Article 4 (c), he shall receive from the Government of the Republic of Colombia all the compensations, emoluments, and perquisites which would be due if he had completed two years' service, but the annual salary shall terminate as provided by Article 12. But should the Government of the United States of America detach

any member for breach of discipline, no cost of the return to the United States of America of such member, his family, household effects, baggage or automobile shall be borne by the Republic of Colombia nor shall the additional allowance provided in Article 15 be paid to him.

ARTICLE 18.—Compensation for transportation and traveling expenses in the Republic of Colombia, on Colombian official business, shall be provided by the Government of the Republic of Colombia in accordance with Article 9, except for travel performed incident to the provisions of Article 14, which shall be compensated as provided in that Article.

ARTICLE 19.—If any member of the Mission, or any of his family, should die in the Republic of Colombia, the Government of the Republic of Colombia shall have the body transported to such place in the United States of America as the surviving members of the family may decide, but the cost to the Government of the Republic of Colombia shall not exceed the cost of transporting the remains from the place of decease to the port of entry in the United States of America. Should the deceased be a member of the Mission, his services with the Mission shall be considered to have terminated fifteen (15) days after his death, and compensations as specified in Title IV of this agreement shall be paid to the widow of the deceased or to any other person who may have been designated in writing by the deceased while serving under the terms of this agreement; provided that such widow or other person shall not be compensated for the accrued leave of the deceased; and provided further that all compensations due under the provisions of this Article shall be paid within fifteen (15) days of the decease of the said member.

TITLE V. ADMINISTRATIVE PROVISIONS

ARTICLE 20.—The offices of the Mission shall be located at such place or places as the Minister of War and/or the Director General of the Navy may direct. Adequate office furniture, equipment, supplies, and official stationery shall be provided by the Government of the Republic of Colombia.

ARTICLE 21.—The Government of the United States of America shall provide the Mission with requisite motor transportation and maintenance thereof, for local use. The Government of the Republic of Colombia shall provide the services of two chauffeurs, one for the Chief of Mission and one for utility service of the Mission as a whole.

TITLE VI. REQUISITES AND CONDITIONS

ARTICLE 22.—So long as this agreement, or any extension thereof, is in effect, the Government of the Republic of Colombia shall not engage the services of any personnel of any other foreign government, except teachers, for military duties connected with the Colombian Navy, except by mutual agreement between the Government of the United States of America and the Government of the Republic of Colombia.

ARTICLE 23.—Each member of the Mission shall agree not to divulge or by any means disclose to any foreign government or to any person whatsoever any secret or confidential matter of which he may become cognizant in any way. This requirement shall continue to be binding after termination of duty with the Mission and after the expiration or cancellation of this agreement or any extension thereof.

ARTICLE 24.—Throughout this agreement the term "family" shall be construed as meaning wife and dependent children.

ARTICLE 25.—Each member of the Mission shall be entitled to one month's annual leave with pay, or to a proportional part thereof with pay for any fractional part of a year. Unused portions of said leave shall be cumulative from year to year during service as a member of the Mission.

ARTICLE 26.—The leave cited in the preceding Article may be spent in foreign countries. All travel time, including sea travel, shall count as leave and shall not be in addition to that authorized in the preceding Article.

ARTICLE 27.—The Government of the Republic of Colombia agrees to grant the leave specified in Article 25 upon receipt of written application, approved by the Chief of the Mission.

ARTICLE 28.—In case a member of the Mission becomes ill or suffers injury, he shall, at the discretion of the Chief of the Mission, be placed by the Government of the Republic of Colombia in such hospital as the Chief of the Mission deems suitable after consultation with the Colombian authorities, and all expenses incurred as the result of such illness or injury while the patient is a member of the Mission and remains in the Republic of Colombia shall be paid by the Government of the Republic of Colombia.

ARTICLE 29.—Any member unable to perform his duties with the Mission by reason of long-continued physical disability shall be replaced.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed this agreement in duplicate, in the English and Spanish languages, at Washington, this 14th day of October 1946.

For the United States of America: DEAN ACHESON.

For the Republic of Colombia: C. S. DE SANTA-MARIA.

RECIPROCAL ASSISTANCE AMONG AMERICAN STATES

NOTE.—The Inter-American Conference on Problems of War and Peace, held at Mexico City, 21 February–8 March 1945, adopted as part of its Final Act a resolution (No. 8) on reciprocal assistance and American solidarity, known as the “Act of Chapultepec.” *Treaties and Other International Acts Series 1543*; Naval War College, *International Law Documents 1944–45*, p. 110. The resolution included a recommendation: “That for the purpose of meeting threats or acts of aggression against any American Republic following the establishment of peace, the Governments of the American Republics should consider the conclusion, in accordance with their constitutional processes, of a treaty establishing procedures whereby such threats or acts may be met by the use, by all or some of the signatories of said treaty, of any one or more of the following measures: recall of chiefs of diplomatic missions; breaking of diplomatic relations; breaking of consular relations; breaking of postal, telegraphic, telephonic, radio-telephonic relations; interruption of economic, commercial and financial relations; use of armed force to prevent or repel aggression.” This recommendation was the chief item on the agenda of the Inter-American Conference for Maintenance of Continental Peace and Security, which met at Petropolis, 15 August–2 September 1947, and which drew up the treaty which follows.

(19) Inter-American Treaty of Reciprocal Assistance, Rio de Janeiro, 2 September 1947*

(17 Department of State Bulletin 565)

In the name of their Peoples, the Governments represented at the Inter-American Conference for the Maintenance of Continental Peace and Security,¹ desirous of consolidating and strengthening their relations of friendship and good neighborliness, and
CONSIDERING:

That Resolution VIII of the Inter-American Conference on Problems of War and Peace, which met in Mexico City, recommended the conclusion of a treaty to prevent and repel threats and acts of aggression against any of the countries of America;

That the High Contracting Parties reiterate their will to remain united in an inter-American system consistent with the purposes and principles of the

* The ratification of the United States was deposited on 30 December 1947; but the Treaty was not in force on 1 April 1948.

¹ The Governments of all American Republics except Nicaragua.

United Nations, and reaffirm the existence of the agreement which they have concluded concerning those matters relating to the maintenance of international peace and security which are appropriate for regional action;

That the High Contracting Parties reaffirm their adherence to the principles of inter-American solidarity and cooperation, and especially to those set forth in the preamble and declarations of the Act of Chapultepec, all of which should be understood to be accepted as standards of their mutual relations and as the juridical basis of the Inter-American System;

That the American States propose, in order to improve the procedures for the pacific settlement of their controversies, to conclude the treaty concerning the "Inter-American Peace System" envisaged in Resolutions IX and XXXIX of the Inter-American Conference on Problems of War and Peace;

That the obligation of mutual assistance and common defense of the American Republics is essentially related to their democratic ideals and to their will to cooperate permanently in the fulfillment of the principles and purposes of a policy of peace;

That the American regional community affirms as a manifest truth that juridical organization is a necessary prerequisite of security and peace, and that peace is founded on justice and moral order and, consequently, on the international recognition and protection of human rights and freedoms, on the indispensable well-being of the people, and on the effectiveness of democracy for the international realization of justice and security,

Have resolved, in conformity with the objectives stated above, to conclude the following Treaty, in order to assure peace, through adequate means, to provide for effective reciprocal assistance to meet

armed attacks against any American State, and in order to deal with threats of aggression against any of them:

ARTICLE 1.—The High Contracting Parties formally condemn war and undertake in their international relations not to resort to the threat or the use of force in any manner inconsistent with the provisions of the Charter of the United Nations or of this Treaty.

ARTICLE 2.—As a consequence of the principle set forth in the preceding Article, the High Contracting Parties undertake to submit every controversy which may arise between them to methods of peaceful settlement and to endeavor to settle any such controversy among themselves by means of the procedures in force in the Inter-American System before referring it to the General Assembly or the Security Council of the United Nations.

ARTICLE 3.—1. The High Contracting Parties agree that an armed attack by any State against an American State shall be considered as an attack against all the American States and, consequently, each one of the said Contracting Parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations.

2. On the request of the State or States directly attacked and until the decision of the Organ of Consultation of the Inter-American System, each one of the Contracting Parties may determine the immediate measures which it may individually take in fulfillment of the obligation contained in the preceding paragraph and in accordance with the principle of continental solidarity. The Organ of Consultation shall meet without delay for the purpose of examining those measures and agreeing upon the

measures of a collective character that should be taken.

3. The provisions of this Article shall be applied in case of any armed attack which takes place within the region described in Article 4 or within the territory of an American State. When the attack takes place outside of the said areas, the provisions of Article 6 shall be applied.

4. Measures of self-defense provided for under this Article may be taken until the Security Council of the United Nations has taken the measures necessary to maintain international peace and security.

ARTICLE 4.—The region to which this Treaty refers is bounded as follows: beginning at the North Pole; thence due south to a point 74 degrees north latitude, 10 degrees west longitude; thence by a rhumb line to a point 47 degrees 30 minutes north latitude, 50 degrees west longitude; thence by a rhumb line to a point 35 degrees north latitude, 60 degrees west longitude; thence due south to a point in 20 degrees north latitude; thence by a rhumb line to a point 5 degrees north latitude, 24 degrees west longitude; thence due south to the South Pole; thence due north to a point 30 degrees south latitude, 90 degrees west longitude; thence by a rhumb line to a point on the Equator at 97 degrees west longitude; thence by a rhumb line to a point 15 degrees north latitude, 120 degrees west longitude; thence by a rhumb line to a point 50 degrees north latitude, 170 degrees east longitude; thence due north to a point in 54 degrees north latitude; thence by a rhumb line to a point 65 degrees 30 minutes north latitude, 168 degrees 58 minutes 5 seconds west longitude; thence due north to the North Pole.

ARTICLE 5.—The High Contracting Parties shall immediately send to the Security Council of the

United Nations, in conformity with Articles 51 and 54 of the Charter of the United Nations, complete information concerning the activities undertaken or in contemplation in the exercise of the right of self-defense or for the purpose of maintaining inter-American peace and security.

ARTICLE 6.—If the inviolability or the integrity of the territory or the sovereignty or political independence of any American State should be affected by an aggression which is not an armed attack or by an extra-continental or intra-continental conflict, or by any other fact or situation that might endanger the peace of America, the Organ of Consultation shall meet immediately in order to agree on the measures which must be taken in case of aggression to assist the victim of the aggression or, in any case, the measures which should be taken for the common defense and for the maintenance of the peace and security of the Continent.

ARTICLE 7.—In the case of a conflict between two or more American States, without prejudice to the right of self-defense in conformity with Article 51 of the Charter of the United Nations, the High Contracting Parties, meeting in consultation shall call upon the contending States to suspend hostilities and restore matters to the *status quo ante bellum*, and shall take in addition all other necessary measures to reestablish or maintain inter-American peace and security and for the solution of the conflict by peaceful means. The rejection of the pacifying action will be considered in the determination of the aggressor and in the application of the measures which the consultative meeting may agree upon.

ARTICLE 8.—For the purposes of this Treaty, the measures on which the Organ of Consultation may agree will comprise one or more of the following: recall of chiefs of diplomatic missions; breaking of

diplomatic relations; breaking of consular relations; partial or complete interruption of economic relations or of rail, sea, air, postal, telegraphic, telephonic, and radiotelephonic or radiotelegraphic communications; and use of armed force.

ARTICLE 9.—In addition to other acts which the Organ of Consultation may characterize as aggression, the following shall be considered as such:

a. Unprovoked armed attack by a State against the territory, the people, or the land, sea or air forces of another State;

b. Invasion, by the armed forces of a State, of the territory, of an American State, through the trespassing of boundaries demarcated in accordance with a treaty, judicial decision, or arbitral award, or, in the absence of frontiers thus demarcated, invasion affecting a region which is under the effective jurisdiction of another State.

ARTICLE 10.—None of the provisions of this Treaty shall be construed as impairing the rights and obligations of the High Contracting Parties under the Charter of the United Nations.

ARTICLE 11.—The consultation to which this Treaty refers shall be carried out by means of the Meetings of Ministers of Foreign Affairs of the American Republics which have ratified the Treaty, or in the manner or by the organ which in the future may be agreed upon.

ARTICLE 12.—The Governing Board of the Pan American Union may act provisionally as an organ of consultation until the meeting of the Organ of Consultation referred to in the preceding Article takes place.

ARTICLE 13.—The consultations shall be initiated at the request addressed to the Governing Board of the Pan American Union by any of the Signatory States which has ratified the Treaty.

ARTICLE 14.—In the voting referred to in this Treaty only the representatives of the Signatory States which have ratified the Treaty may take part.

ARTICLE 15.—The Governing Board of the Pan American Union shall act in all matters concerning this Treaty as an organ of liaison among the Signatory States which have ratified this Treaty and between these States and the United Nations.

ARTICLE 16.—The decisions of the Governing Board of the Pan American Union referred to in Articles 13 and 15 above shall be taken by an absolute majority of the Members entitled to vote.

ARTICLE 17.—The Organ of Consultation shall take its decisions by a vote of two-thirds of the Signatory States which have ratified the Treaty.

ARTICLE 18.—In the case of a situation or dispute between American States, the parties directly interested shall be excluded from the voting referred to in the two preceding Articles.

ARTICLE 19.—To constitute a quorum in all the meetings referred to in the previous Articles, it shall be necessary that the number of States represented shall be at least equal to the number of votes necessary for the taking of the decision.

ARTICLE 20.—Decisions which require the application of the measures specified in Article 8 shall be binding upon all the Signatory States which have ratified this Treaty, with the sole exception that no State shall be required to use armed force without its consent.

ARTICLE 21.—The measures agreed upon by the Organ of Consultation shall be executed through the procedures and agencies now existing or those which may in the future be established.

ARTICLE 22.—This Treaty shall come into effect between the States which ratify it as soon as the

ratifications of two-thirds of the Signatory States have been deposited.

ARTICLE 23.—This Treaty is open for signature by the American States at the city of Rio de Janeiro, and shall be ratified by the Signatory States as soon as possible in accordance with their respective constitutional processes. The ratifications shall be deposited with the Pan American Union, which shall notify the Signatory States of each deposit. Such notification shall be considered as an exchange of ratifications.

ARTICLE 24.—The present Treaty shall be registered with the Secretariat of the United Nations through the Pan American Union, when two-thirds of the Signatory States have deposited their ratification.

ARTICLE 25.—This Treaty shall remain in force indefinitely, but may be denounced by any High Contracting Party by a notification in writing to the Pan American Union, which shall inform all the other High Contracting Parties of each notification of denunciation received. After the expiration of two years from the date of the receipt by the Pan American Union of a notification of denunciation by any High Contracting Party, the present Treaty shall cease to be in force with respect to such State, but shall remain in full force and effect with respect to all the other High Contracting Parties.

ARTICLE 26.—The principles and fundamental provisions of this Treaty shall be incorporated in the Organic Pact of the Inter-American System.

In witness whereof, the undersigned Plenipotentiaries, having deposited their full powers found to be in due and proper form, sign this Treaty on behalf of their respective Governments, on the dates appearing opposite their signatures.

Done in the City of Rio de Janeiro, in four texts

in the English, French, Portuguese and Spanish languages, on the second of September, nineteen hundred forty-seven.

[Signatures omitted.]

RESERVATION OF HONDURAS:

The Delegation of Honduras, in signing the present Treaty and in connection with Article 9, section (b), does so with the reservation that the boundary between Honduras and Nicaragua is definitively demarcated by the Joint Boundary Commission of nineteen hundred and nineteen hundred and one, starting from a point in the Gulf of Fonseca, in the Pacific Ocean, to Portillo de Teotecacinte and, from this point to the Atlantic, by the line that His Majesty the King of Spain's arbitral award established on the twenty-third of December of nineteen hundred and **six**.

V. TRIALS OF WAR CRIMINALS

TRIALS IN EUROPE

• NOTE.—1. The prosecution of enemy persons responsible for acts of violence inflicted upon the civilian populations of occupied countries was envisaged in a Declaration signed at London on 13 January 1942 by representatives of Belgium, Czechoslovakia, Free France, Greece, Luxembourg, The Netherlands, Norway, Poland and Yugoslavia. 37 *American Journal of International Law* (1943), p. 84.

2. In 1943, a United Nations Commission for the Investigation of War Crimes was established at London, to investigate war crimes against nationals of the United Nations, to assemble the information available, and to report from time to time to the Governments concerned.

3. In a conference at Moscow on 30 October 1943, the Foreign Secretaries of the United States of America, the United Kingdom and the Soviet Union, speaking in the interests of the United Nations, issued a declaration giving "full warning" that German officers and men and members of the Nazi party responsible for atrocities, massacres and executions would be sent back to the countries in which their deeds were done for punishment according to the laws of those countries. This declaration was made without prejudice to the cases of the major criminals whose offenses had no particular geographical localization, as it was contemplated that such persons would be punished by the joint decision of the Governments of the Allies. 38 *American Journal of International Law* (Supp. 1944), p. 7.

4. On 8 August 1945, the Governments of the United States, France, the United Kingdom and the Soviet Union, "acting in the interests of all the United Nations," concluded an Agreement at London for the establishment, "after consultation with the Control Council for Germany," of an International Military Tribunal for the trial of certain war criminals whose offenses had no particular geographical localization. *Naval War College, International Law Documents 1944-45*, p. 249. The Agreement entered into force at once; it was to continue in force for a period of one year and thereafter subject to termination by any signatory on one month's notice. The Agreement was open to adherence by "any Government of the United Nations," and the Governments of the following 19 states adhered to it: Australia, Belgium, Czechoslovakia, Denmark, Ethiopia, Greece, Haiti, Honduras, India, Luxembourg, Netherlands, New Zealand, Norway, Panama, Paraguay, Poland, Uruguay, Venezuela, Yugoslavia. 14 *Department of State Bulletin* (1946) 261, 954.

5. The Charter annexed to the Agreement of 8 August 1945 set up an International Military Tribunal for the "trial and punishment of the major war criminals of the European Axis." Slight errors in the English and French versions of Article 6, paragraph c, as compared with the Russian version, were rectified by a protocol signed at Berlin on 6 October 1945. *Executive Agreement Series No. 472*.

6. Members of the International Military Tribunal, and alternates, were appointed by each of the four States signatory to the London Agreement of 8 August 1945. All were civilians except the member and the alternate designated by the Soviet Union. The Tribunal first met at Berlin on 15 October 1945.

7. On 18 October 1945, twenty-four Germans were indicted before the Inter-

national Military Tribunal, in the name of the four States signatory to the London Agreement. Each of the defendants was charged on one or more of the following counts: 1) a common plan or conspiracy; 2) crimes against peace; 3) war crimes; 4) crimes against humanity. The Tribunal was also asked to declare that the Reich Cabinet, various Nazi organizations, and the General Staff and High Command of the German Armed Forces were criminal. Department of State Publication 2420, p. 23. One of the defendants (Robert Ley) having died, twenty-three were arraigned before the Tribunal; the trial of one defendant (Gustav Krupp) was postponed; and one defendant (Martin Bormann) was tried in his absence.

8. The trial at Nürnberg began on 20 November 1945, and ended on 31 August 1946. The Tribunal held 403 open sessions; 33 witnesses were heard for the prosecution, while 61 witnesses, in addition to nineteen of the defendants, testified for the defense; 143 additional witnesses gave evidence for the defense by means of written answers to interrogatories. The Tribunal heard 22 witnesses for organizations, in addition to the evidence taken by commissioners. In the judgment rendered on 30 September and 1 October 1946, 19 of the 22 defendants who came to trial were found guilty on one or more counts of the indictment, and three were acquitted. Twelve were sentenced to death by hanging; one committed suicide, and eleven were executed. Three Nazi organizations and the Secret State Police were declared to have been criminal in character.

9. Though it had been contemplated that in subsequent proceedings the International Military Tribunal would proceed to other trials, no such proceedings were held by the Tribunal, and it did not later convene.

10. In a report made to President Truman on 9 November 1946, Francis Biddle, American Member of the International Military Tribunal, recommended "that the United Nations as a whole reaffirm the principles of the Nürnberg Charter in the context of a general codification of offences against the peace and security of mankind." In reply, President Truman stated that the setting up of "a code of international criminal law to deal with all who wage aggressive war . . . deserves to be studied and weighed by the best legal minds the world over"; and he expressed the hope that the United Nations would carry out Judge Biddle's recommendation. 15 Department of State Bulletin 954-957. A proposal in this sense was made by the American Delegation to the General Assembly of the United Nations on 15 November 1946. United Nations Document A/C.6/69. On 11 December 1946, the General Assembly took note of the London Agreement and annexed Charter, as well as the Tokyo Charter, and adopted a resolution affirming the principles of international law recognized by the Charter of the Nürnberg Tribunal and the judgment of the Tribunal.

11. On 20 December 1945, by its Law No. 10, the Control Council for Germany provided for national tribunals to be set up in the various zones of Germany for the trial of persons accused of war crimes. Ordinance No. 7, adopted by the Military Government for Germany, United States Zone, on 18 October 1946, made provision for tribunals in the United States Zone and set out the procedure for them to follow.

(20) Excerpts from the Judgment of the International
Military Tribunal, Nürnberg, 30 September–1 October
1946

THE INTERNATIONAL MILITARY TRIBUNAL

NÜRNBERG, GERMANY

LORD JUSTICE LAWRENCE, Member for the United
Kingdom of Great Britain and Northern Ireland,
President

Mr. JUSTICE BIRKETT, Alternate Member

Mr. FRANCIS BIDDLE, Member for the United States
of America

Judge JOHN J. PARKER, Alternate Member

M. Le PROFESSEUR DONNEDIEU DE VABRES, Member
for the French Republic

M. Le CONSEILLER R. FALCO, Alternate Member

MAJOR GENERAL I. T. NIKITCHENKO, Member for
the Union of Soviet Socialist Republics

LIEUTENANT COLONEL A. F. VOLCHKOV, Alternate
Member

PROSECUTION COUNSEL

Chief Prosecutor for the United States of America:
Mr. Justice Robert H. Jackson

Chief Prosecutor for the United Kingdom of Great
Britain and Northern Ireland: H. M. Attorney-
General, Sir Hartley Shawcross, K. C., M. P.

Chief Prosecutor for the French Republic: M. Fran-
çois de Menthon; M. Auguste Champetier de
Ribes

Chief Prosecutor for the Union of Soviet Socialist
Republics: General R. A. Rudenko

The United States of America, the French Repub-
lic, the United Kingdom of Great Britain and
Northern Ireland, and the Union of Soviet Socialist
Republics

against

Hermann Wilhelm Goering, Rudolf Hess, Joachim von Ribbentrop, Robert Ley, Wilhelm Keitel, Ernst Kaltenbrunner, Alfred Rosenberg, Hans Frank, Wilhelm Frick, Julius Streicher, Walter Funk, Hjalmar Schacht, Gustav Krupp von Bohlen und Halbach, Karl Doenitz, Erich Raeder, Baldur von Schirach, Fritz Sauckel, Alfred Jodl, Martin Bormann, Franz von Papen, Artur Seyss-Inquart, Albert Speer, Constantin von Neurath, and Hans Fritzsche, Individually and as Members of Any of the Following Groups or Organizations to Which They Respectively Belonged, Namely: Die Reichsregierung (Reich Cabinet); Das Korps Der Politischen Leiter Der Nationalsozialistischen Deutschen Arbeiterpartei (Leadership Corps of the Nazi Party); Die Schutzstaffeln Der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the "SS") and including Die Sicherheitsdienst (commonly known as the "SD"); Die Geheime Staatspolizei (Secret State Police, commonly known as the "Gestapo"); Die Sturmabteilungen Der N. S. D. A. P. (commonly known as the "SA") and the General Staff and High Command of the German Armed Forces all as defined in Appendix B of the Indictment, defendants.

* * * In Berlin, on the 18th October 1945, in accordance with Article 14 of the Charter, an indictment was lodged against the defendants named in the caption above, who had been designated by the Committee of the Chief Prosecutors of the signatory powers as major war criminals.

A copy of the indictment in the German language was served upon each defendant in custody at least 30 days before the trial opened. . . .

The defendant Robert Ley committed suicide in prison on the 25th October 1945. On the 15th November 1945 the Tribunal decided that the defendant Gustav Krupp von Bohlen und Halbach could not then be tried because of his physical and mental condition, but that the charges against him in the indictment should be retained for trial thereafter, if the physical and mental condition of the defendant should permit. On the 17th November 1945 the Tribunal decided to try the defendant Bormann in his absence under the provisions of Article 12 of the Charter. After argument, and consideration of full medical reports, and a statement from the defendant himself, the Tribunal decided on the 1st December 1945 that no grounds existed for a postponement of the trial against the defendant Hess because of his mental condition. A similar decision was made in the case of the defendant Streicher.

In accordance with Articles 16 and 23 of the Charter, counsel were either chosen by the defendants in custody themselves, or at their request were appointed by the Tribunal. In his absence the Tribunal appointed counsel for the defendant Bormann, and also assigned counsel to represent the named groups or organizations.

The trial which was conducted in four languages—English, Russian, French, and German—began on the 20th November 1945, and pleas of “Not guilty” were made by all the defendants except Bormann.

The hearing of evidence and the speeches of counsel concluded on 31 August 1946.

Four hundred and three open sessions of the Tribunal have been held; 33 witnesses gave evidence orally for the prosecution against the individual defendants, and 61 witnesses, in addition to 19 of the defendants, gave evidence for the defense.

A further 143 witnesses gave evidence for the

defense by means of written answers to interrogatories.

The Tribunal appointed commissioners to hear evidence relating to the organizations, and 101 witnesses were heard for the defense before the commissioners, and 1,809 affidavits from other witnesses were submitted. Six reports were also submitted, summarizing the contents of a great number of further affidavits.

Thirty-eight thousand affidavits, signed by 155,000 people, were submitted on behalf of the Political Leaders, 136,213 on behalf of the SS, 10,000 on behalf of the SA, 7,000 on behalf of the SD, 3,000 on behalf of the General Staff and OKW, and 2,000 on behalf of the Gestapo.

The Tribunal itself heard 22 witnesses for the organizations. The documents tendered in evidence for the prosecution of the individual defendants and the organizations numbered several thousands. A complete stenographic record of everything said in court has been made, as well as an electrical recording of all the proceedings.

Copies of all the documents put in evidence by the prosecution have been supplied to the defense in the German language. The applications made by the defendants for the production of witnesses and documents raised serious problems in some instances, on account of the unsettled state of the country. It was also necessary to limit the number of witnesses to be called, in order to have an expeditious hearing, in accordance with Article 18 (c) of the Charter. The Tribunal, after examination, granted all those applications which in its opinion were relevant to the defense of any defendant or named group or organization, and were not cumulative. Facilities were provided for obtaining those witnesses and

documents granted through the office of the General Secretary established by the Tribunal.

Much of the evidence presented to the Tribunal on behalf of the prosecution was documentary evidence, captured by the Allied armies in German Army headquarters, Government buildings, and elsewhere. Some of the documents were found in salt mines, buried in the ground, hidden behind false walls, and in other places thought to be secure from discovery. The case, therefore, against the defendants rests in a large measure on documents of their own making, the authenticity of which has not been challenged except in one or two cases. * * *

For the purpose of showing the background of the aggressive war and war crimes charged in the indictment, the Tribunal will begin by reviewing some of the events that followed the First World War, and in particular, by tracing the growth of the Nazi Party under Hitler's leadership to a position of supreme power from which it controlled the destiny of the whole German people, and paved the way for the alleged commission of all the crimes charged against the defendants. * * * [The Tribunal reviewed the history of the Party's rise to power.]

THE COMMON PLAN OF CONSPIRACY AND AGGRESSIVE WAR

The Tribunal now turns to the consideration of the crimes against peace charged in the indictment. Count one of the indictment charges the defendants with conspiring or having a common plan to commit crimes against peace. Count two of the indictment charges the defendants with committing specific crimes against peace by planning, preparing, initiating, and waging wars of aggression against a number of other States. It will be convenient to consider the question of the existence of a common

plan and the question of aggressive war together, and to deal later in this judgment with the question of the individual responsibility of the defendants.

The charges in the indictment that the defendants planned and waged aggressive wars are charges of the utmost gravity. War is essentially an evil thing. Its consequences are not confined to the belligerent states alone, but affect the whole world.

To initiate a war of aggression, therefore, is not only an international crime; it is the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole.

The first acts of aggression referred to in the indictment are the seizure of Austria and Czechoslovakia; and the first war of aggression charged in the indictment is the war against Poland begun on the 1st September 1939.

Before examining that charge it is necessary to look more closely at some of the events which preceded these acts of aggression. The war against Poland did not come suddenly out of an otherwise clear sky; the evidence has made it plain that this war of aggression, as well as the seizure of Austria and Czechoslovakia, was premeditated and carefully prepared, and was not undertaken until the moment was thought opportune for it to be carried through as a definite part of the preordained scheme and plan.

For the aggressive designs of the Nazi Government were not accidents arising out of the immediate political situation in Europe and the world; they were a deliberate and essential part of Nazi foreign policy.

From the beginning, the National Socialist movement claimed that its object was to unite the German people in the consciousness of their mission and destiny, based on inherent qualities of race, and under the guidance of the Fuehrer.

For its achievement, two things were deemed to be essential: The disruption of the European order as it had existed since the Treaty of Versailles, and the creation of a Greater Germany beyond the frontiers of 1914. This necessarily involved the seizure of foreign territories.

War was seen to be inevitable, or at the very least, highly probable, if these purposes were to be accomplished. The German people, therefore, with all their resources, were to be organized as a great political-military army, schooled to obey without question any policy decreed by the State. * * *

[The Tribunal reviewed at length German preparation for aggression, the seizures of Austria and Czechoslovakia, the aggression against Poland, the successive invasions of Denmark, Norway, Belgium, the Netherlands, Luxemburg, Yugoslavia, Greece, and the U. S. S. R., and the commencement of war against the United States.]

VIOLATIONS OF INTERNATIONAL TREATIES

The Charter defines as a crime the planning or waging of war that is a war of aggression or a war in violation of international treaties. The Tribunal has decided that certain of the defendants planned and waged aggressive wars against 10 nations, and were therefore guilty of this series of crimes. This makes it unnecessary to discuss the subject in further detail, or even to consider at any length the extent to which these aggressive wars were also "wars in violation of international treaties, agreements, or assurances." These treaties are set out in appendix C of the indictment. Those of principal importance are the following:

(A) HAGUE CONVENTIONS

In the 1899 Convention the signatory powers agreed: "before an appeal to arms . . . to have re-

course, as far as circumstances allow, to the good offices or mediation of one or more friendly powers.” A similar clause was inserted in the Convention for Pacific Settlement of International Disputes of 1907. In the accompanying Convention Relative to Opening of Hostilities, article I contains this far more specific language:

“The Contracting Powers recognize that hostilities between them must not commence without a previous and explicit warning, in the form of either a declaration of war, giving reasons, or an ultimatum with a conditional declaration of war.”

Germany was a party to these conventions.

(B) VERSAILLES TREATY

Breaches of certain provisions of the Versailles Treaty are also relied on by the prosecution—not to fortify the left bank of the Rhine (art. 42–44): to “respect strictly the independence of Austria” (art. 80); renunciation of any rights in Memel (art. 99) and the Free City of Danzig (art. 100); the recognition of the independence of the Czecho-Slovak State; and the Military, Naval, and Air Clauses against German rearmament found in part V. There is no doubt that action was taken by the German Government contrary to all these provisions, the details of which are set out in appendix C. With regard to the Treaty of Versailles, the matters relied on are:

1. The violation of articles 42 to 44 in respect of the demilitarized zone of the Rhineland.
2. The annexation of Austria on the 13th March 1938, in violation of article 80.
3. The incorporation of the district of Memel on the 22d March 1939, in violation of article 99.
4. The incorporation of the Free City of Danzig on the 1st September 1939, in violation of article 100.
5. The incorporation of the provinces of Bohemia

and Moravia on the 16th March 1939, in violation of article 81.

6. The repudiation of the military, naval and air clauses of the treaty, in or about March of 1935.

On the 21st May 1935, Germany announced that, whilst renouncing the disarmament clauses of the treaty, she would still respect the territorial limitations, and would comply with the Locarno Pact. (With regard to the first five breaches alleged, therefore, the Tribunal finds the allegation proved.)

(C) TREATIES OF MUTUAL GUARANTEE, ARBITRATION,
AND NON-AGGRESSION

It is unnecessary to discuss in any detail the various treaties entered into by Germany with other powers. Treaties of Mutual Guarantee were signed by Germany at Locarno in 1925, with Belgium, France, Great Britain, and Italy, assuring the maintenance of the territorial status quo. Arbitration treaties were also executed by Germany at Locarno with Czechoslovakia, Belgium, and Poland.

Article I of the latter treaty is typical, providing:

“All disputes of every kind between Germany and Poland
* * * which it may not be possible to settle amicably
by the normal methods of diplomacy, shall be submitted for
decision to an arbitral tribunal . . .”

Conventions of arbitration and conciliation were entered into between Germany, the Netherlands, and Denmark in 1926; and between Germany and Luxemburg in 1929. Nonaggression treaties were executed by Germany with Denmark and Russia in 1939.

(D) KELLOGG-BRIAND PACT

The Pact of Paris was signed on the 27th August 1928 by Germany, the United States, Belgium, France, Great Britain, Italy, Japan, Poland, and

other countries; and subsequently by other powers. The Tribunal has made full reference to the nature of this Pact and its legal effect in another part of this judgment. It is therefore not necessary to discuss the matter further here, save to state that in the opinion of the Tribunal this pact was violated by Germany in all the cases of aggressive war charged in the indictment. It is to be noted that on the 26th January 1934, Germany signed a Declaration for the Maintenance of Permanent Peace with Poland, which was explicitly based on the Pact of Paris, and in which the use of force was outlawed for a period of 10 years.

The Tribunal does not find it necessary to consider any of the other treaties referred to in the appendix, or the repeated agreements and assurances of her peaceful intentions entered into by Germany.

(B) THE LAW OF THE CHARTER

The jurisdiction of the Tribunal is defined in the Agreement and Charter, and the crimes coming within the jurisdiction of the Tribunal, for which there shall be individual responsibility, are set out in Article 6. The law of the Charter is decisive, and binding upon the Tribunal.

The making of the Charter was the exercise of the sovereign legislative power by the countries to which the German Reich unconditionally surrendered; and the undoubted right of these countries to legislate for the occupied territories has been recognized by the civilized world. The Charter is not an arbitrary exercise of power on the part of the victorious nations, but in the view of the Tribunal, as will be shown, it is the expression of international law existing at the time of its creation; and to that extent is itself a contribution to international law.

The Signatory Powers created this Tribunal, de-

fined the law it was to administer, and made regulations for the proper conduct of the trial. In doing so, they have done together what any one of them might have done singly; for it is not to be doubted that any nation has the right thus to set up special courts to administer law. With regard to the constitution of the court, all that the defendants are entitled to ask is to receive a fair trial on the facts and law.

The Charter makes the planning or waging of a war of aggression or a war in violation of international treaties a crime; and it is therefore not strictly necessary to consider whether and to what extent aggressive war was a crime before the execution of the London Agreement. But in view of the great importance of the questions of law involved, the Tribunal has heard full argument from the prosecution and the defense, and will express its view on the matter.

It was urged on behalf of the defendants that a fundamental principle of all law—international and domestic—is that there can be no punishment of crime without a preexisting law. “*Nullum crimen sine lege, nulla poena sine lege.*” It was submitted that *ex post facto* punishment is abhorrent to the law of all civilized nations, that no sovereign power had made aggressive war a crime at the time the alleged criminal acts were committed, that no statute had defined aggressive war, that no penalty had been fixed for its commission, and no court had been created to try and punish offenders.

In the first place, it is to be observed that the maxim *nullum crimen sine lege* is not a limitation of sovereignty, but is in general a principle of justice. To assert that it is unjust to punish those who in defiance of treaties and assurances have attacked neighboring states without warning is obviously un-

true, for in such circumstances the attacker must know that he is doing wrong, and so far from it being unjust to punish him, it would be unjust if his wrong were allowed to go unpunished. Occupying the positions they did in the government of Germany, the defendants, or at least some of them must have known of the treaties signed by Germany, outlawing recourse to war for the settlement of international disputes; they must have known that they were acting in defiance of all international law when in complete deliberation they carried out their designs of invasion and aggression. On this view of the case alone, it would appear that the maxim has no application to the present facts.

This view is strongly reinforced by a consideration of the state of international law in 1939, so far as aggressive war is concerned. The General Treaty for the Renunciation of War of August 27, 1928, more generally known as the Pact of Paris or the Kellogg-Briand Pact, was binding on 63 nations, including Germany, Italy, and Japan at the outbreak of war in 1939. In the preamble, the signatories declared that they were—

“Deeply sensible of their solemn duty to promote the welfare of mankind; persuaded that the time has come when a frank renunciation of war as an instrument of national policy should be made to the end that the peaceful and friendly relations now existing between their peoples should be perpetuated . . . all changes in their relations with one another should be sought only by pacific means . . . thus uniting civilized nations of the world in a common renunciation of war as an instrument of their national policy . . .”

The first two articles are as follows:

“ARTICLE I. The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies and renounce it as an instrument of national policy in their relations to one another.”

“ARTICLE II. The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.”

The question is, what was the legal effect of this pact? The nations who signed the pact or adhered to it unconditionally condemned recourse to war for the future as an instrument of policy, and expressly renounced it. After the signing of the pact, any nation resorting to war as an instrument of national policy breaks the pact. In the opinion of the Tribunal, the solemn renunciation of war as an instrument of national policy necessarily involves the proposition that such a war is illegal in international law; and that those who plan and wage such a war, with its inevitable and terrible consequences, are committing a crime in so doing. War for the solution of international controversies undertaken as an instrument of national policy certainly includes a war of aggression, and such a war is therefore outlawed by the pact. As Mr. Henry L. Stimson, then Secretary of State of the United States, said in 1932:

“War between nations was renounced by the signatories of the Kellogg-Briand Treaty. This means that it has become throughout practically the entire world . . . an illegal thing. Hereafter, when engaged in armed conflict, either one or both of them must be termed violators of this general treaty law . . . We denounce them as law breakers.”

But it is argued that the pact does not expressly enact that such wars are crimes, or set up courts to try those who make such wars. To that extent the same is true with regard to the laws of war contained in the Hague Convention. The Hague Convention of 1907 prohibited resort to certain methods of waging war. These included the inhumane treatment of prisoners, the employment of poisoned weapons, the improper use of flags of truce, and similar matters.

Many of these prohibitions had been enforced long before the date of the Convention; but since 1907 they have certainly been crimes, punishable as offenses against the laws of war; yet the Hague Convention nowhere designates such practices as criminal, nor is any sentence prescribed, nor any mention made of a court to try and punish offenders. For many years past, however, military tribunals have tried and punished individuals guilty of violating the rules of land warfare laid down by this Convention. In the opinion of the Tribunal, those who wage aggressive war are doing that which is equally illegal, and of much greater moment than a breach of one of the rules of the Hague Convention. In interpreting the words of the pact, it must be remembered that international law is not the product of an international legislature, and that such international agreements as the Pact of Paris have to deal with general principles of law, and not with administrative matters of procedure. The law of war is to be found not only in treaties, but in the customs and practices of states which gradually obtained universal recognition, and from the general principles of justice applied by jurists and practiced by military courts. This law is not static, but by continual adaptation follows the needs of a changing world. Indeed, in many cases treaties do no more than express and define for more accurate reference the principles of law already existing.

The view which the Tribunal takes of the true interpretation of the pact is supported by the international history which preceded it. In the year 1923 the draft of a Treaty of Mutual Assistance was sponsored by the League of Nations. In Article I the treaty declared "that aggressive war is an in-

ternational crime," and that the parties would "undertake that no one of them will be guilty of its commission." The draft treaty was submitted to twenty-nine states, about half of whom were in favor of accepting the text. The principal objection appeared to be in the difficulty of defining the acts which would constitute "aggression," rather than any doubt as to the criminality of aggressive war. The preamble to the League of Nations 1924 Protocol for the Pacific Settlement of International Disputes, ("Geneva Protocol"), after "recognising the solidarity of the members of the international community," declared that "a war of aggression constitutes a violation of this solidarity and is an international crime." It went on to declare that the contracting parties were "desirous of facilitating the complete application of the system provided in the Covenant of the League of Nations for the pacific settlement of disputes between the states and of ensuring the repression of international crimes." The Protocol was recommended to the members of the League of Nations by a unanimous resolution in the Assembly of the 48 members of the League. These members included Italy and Japan, but Germany was not then a member of the League.

Although the Protocol was never ratified, it was signed by the leading statesmen of the world, representing the vast majority of the civilized States and peoples, and may be regarded as strong evidence of the intention to brand aggressive war as an international crime.

At the meeting of the Assembly of the League of Nations on the 24th September 1927, all the delegations then present (including the German, the Italian, and the Japanese), unanimously adopted a

declaration concerning wars of aggression. The preamble to the declaration stated:

“The Assembly: Recognizing the solidarity which unites the community of nations;

Being inspired by a firm desire for the maintenance of general peace;

Being convinced that a war of aggression can never serve as a means of settling international disputes, and is in consequence an international crime * * *.”

The unanimous resolution of the 18th February 1928, of 21 American republics at the sixth (Havana) Pan-American Conference, declared that “war of aggression constitutes an international crime against the human species.”

All these expressions of opinion, and others that could be cited, so solemnly made, reinforce the construction which the Tribunal placed upon the Pact of Paris, that resort to a war of aggression is not merely illegal, but is criminal. The prohibition of aggressive war demanded by the conscience of the world, finds its expression in the series of Pacts and Treaties to which the Tribunal has just referred.

It is also important to remember that Article 227 of the Treaty of Versailles provided for the constitution of a special tribunal, composed of representatives of five of the Allied and Associated Powers which had been belligerents in the First World War opposed to Germany, to try the former German Emperor “for a supreme offence against international morality and the sanctity of treaties.” The purpose of this trial was expressed to be “to vindicate the solemn obligations of international undertakings, and the validity of international morality.” In Article 228 of the Treaty, the German Government expressly recognized the right of the Allied Powers “to bring before military tribunals persons accused

of having committed acts in violation of the laws and customs of war.”

It was submitted that international law is concerned with the actions of sovereign States, and provides no punishment for individuals; and further, that where the act in question is an act of State, those who carry it out are not personally responsible, but are protected by the doctrine of the sovereignty of the State. In the opinion of the Tribunal, both these submissions must be rejected. That international law imposes duties and liabilities upon individuals as well as upon states has long been recognized. In the recent case of *Ex parte Quirin* (1942, 317 U. S. 1), before the Supreme Court of the United States, persons were charged during the war with landing in the United States for purposes of spying and sabotage. The late Chief Justice Stone, speaking for the court, said:

“From the very beginning of its history this Court has applied the law of war as including that part of the law of nations which prescribes for the conduct of war, the status, rights, and duties of enemy nations as well as enemy individuals.”

He went on to give a list of cases tried by the courts, where individual offenders were charged with offences against the laws of nations, and particularly the laws of war. Many other authorities could be cited, but enough has been said to show that individuals can be punished for violations of international law. Crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced.

The provisions of Article 228 of the Treaty of Versailles already referred to illustrate and enforce this view of individual responsibility.

The principle of international law, which under certain circumstances, protects the representatives

of a State, cannot be applied to acts which are condemned as criminal by international law. The authors of these acts cannot shelter themselves behind their official position in order to be freed from punishment in appropriate proceedings. Article 7 of the Charter expressly declares:

“The official position of defendants, whether as heads of State, or responsible officials in government departments, shall not be considered as freeing them from responsibility, or mitigating punishment.”

On the other hand the very essence of the Charter is that individuals have international duties which transcend the national obligations of obedience imposed by the individual State. He who violates the laws of war cannot obtain immunity while acting in pursuance of the authority of the State if the State in authorizing action moves outside its competence under international law.

It was also submitted on behalf of most of these defendants that in doing what they did they were acting under the orders of Hitler, and therefore cannot be held responsible for the acts committed by them in carrying out these orders. The Charter specifically provides in Article 8:

“The fact that the defendant acted pursuant to order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment.”

The provisions of this Article are in conformity with the law of all nations. That a soldier was ordered to kill or torture in violation of the international law of war has never been recognized as a defense to such acts of brutality, though, as the Charter here provides, the order may be urged in mitigation of the punishment. The true test, which is found in varying degrees in the criminal law of most nations, is not the existence of the order, but whether moral choice was in fact possible.

THE LAW AS TO THE COMMON PLAN OR CONSPIRACY

In the previous recital of the facts relating to aggressive war, it is clear that planning and preparation had been carried out in the most systematic way at every stage of the history.

Planning and preparation are essential to the making of war. In the opinion of the Tribunal aggressive war is a crime under international law. The Charter defines this offense as planning, preparation, initiation, or waging of a war of aggression "or participation in a common plan or conspiracy for the accomplishment . . . of the foregoing." The indictment follows this distinction. Count one charges the common plan or conspiracy. Count two charges the planning and waging of war. The same evidence has been introduced to support both counts. We shall therefore discuss both counts together, as they are in substance the same. The defendants have been charged under both counts, and their guilt under each count must be determined.

The "common plan or conspiracy" charged in the indictment covers 25 years, from the formation of the Nazi Party in 1919 to the end of the war in 1945. The party is spoken of as "the instrument of cohesion among the defendants" for carrying out the purposes of the conspiracy—the overthrowing of the Treaty of Versailles, acquiring territory lost by Germany in the last war and "lebensraum" in Europe, by the use, if necessary, of armed force, of aggressive war. The "seizure of power" by the Nazis, the use of terror, the destruction of trade unions, the attack on Christian teaching and on churches, the persecution of the Jews, the regimentation of youth—all these are said to be steps deliberately taken to carry out the common plan. It found expression, so it is alleged, in secret rearmament, the withdrawal by Germany from the Disarmament Conference and the

League of Nations, universal military service, and seizure of the Rhineland. Finally, according to the indictment, aggressive action was planned and carried out against Austria and Czechoslovakia in 1936-38, followed by the planning and waging of war against Poland; and, successively, against ten other countries.

The prosecution says, in effect, that any significant participation in the affairs of the Nazi Party or government is evidence of a participation in a conspiracy that is in itself criminal. Conspiracy is not defined in the Charter. But in the opinion of the Tribunal the conspiracy must be clearly outlined in its criminal purpose. It must not be too far removed from the time of decision and of action. The planning, to be criminal, must not rest merely on the declarations of a party program, such as are found in the 25 points of the Nazi Party, announced in 1920, or the political affirmations expressed in "Mein Kampf" in later years. The tribunal must examine whether a concrete plan to wage war existed, and determine the participants in that concrete plan.

It is not necessary to decide whether a single master conspiracy between the defendants has been established by the evidence. The seizure of power by the Nazi Party, and the subsequent domination by the Nazi State of all spheres of economic and social life must of course be remembered when the later plans for waging war are examined. That plans were made to wage wars, as early as November 5, 1937, and probably before that, is apparent. And thereafter, such preparations continued in many directions, and against the peace of many countries. Indeed the threat of war—and war itself if necessary—was an integral part of the Nazi policy. But the evidence establishes with certainty the existence of many separate plans rather than a single conspiracy embracing them all. That Germany was rapidly moving

to complete dictatorship from the moment that the Nazis seized power, and progressively in the direction of war, has been overwhelmingly shown in the ordered sequence of aggressive acts and wars already set out in this judgment.

In the opinion of the Tribunal, the evidence establishes the common planning to prepare and wage war by certain of the defendants. It is immaterial to consider whether a single conspiracy to the extent and over the time set out in the indictment has been conclusively proved. Continued planning, with aggressive war as the objective, has been established beyond doubt. The truth of the situation was well stated by Paul Schmidt, official interpreter of the German Foreign Office, as follows:

“The general objectives of the Nazi leadership were apparent from the start, namely the domination of the European Continent, to be achieved first by the incorporation of all German-speaking groups in the Reich, and, secondly, by territorial expansion under the slogan “Lebensraum.” The execution of these basic objectives, however, seemed to be characterized by improvisation. Each succeeding step was apparently carried out as each new situation arose, but all consistent with the ultimate objectives mentioned above.”

The argument that such common planning cannot exist where there is complete dictatorship is unsound. A plan in the execution of which a number of persons participate is still a plan, even though conceived by only one of them; and those who execute the plan do not avoid responsibility by showing that they acted under the direction of the man who conceived it. Hitler could not make aggressive war by himself. He had to have the cooperation of statesmen, military leaders, diplomats, and businessmen. When they, with knowledge of his aims, gave him their cooperation, they made themselves parties to the plan he had initiated. They are not to be deemed innocent because Hitler made use of them, if they knew what

they were doing. That they were assigned to their tasks by a dictator does not absolve them from responsibility for their acts. The relation of leader and follower does not preclude responsibility here any more than it does in the comparable tyranny of organized domestic crime.

Count one, however, charges not only the conspiracy to commit aggressive war, but also to commit war crimes and crimes against humanity. But the Charter does not define as a separate crime any conspiracy except the one to commit acts of aggressive war. Article 6 of the Charter provides:

“Leaders, organizers, instigators, and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan.”

In the opinion of the Tribunal, these words do not add a new and separate crime to those already listed. The words are designed to establish the responsibility of persons participating in a common plan. The Tribunal will therefore disregard the charges in count one that the defendants conspired to commit war crimes and crimes against humanity, and will consider only the common plan to prepare, initiate, and wage aggressive war.

WAR CRIMES AND CRIMES AGAINST HUMANITY

The evidence relating to war crimes has been overwhelming, in its volume and its detail. It is impossible for this judgment adequately to review it, or to record the mass of documentary and oral evidence that has been presented. The truth remains that war crimes were committed on a vast scale, never before seen in the history of war. They were perpetrated in all the countries occupied by Germany, and on the high seas, and were attended by every

conceivable circumstance of cruelty and horror. There can be no doubt that the majority of them arose from the Nazi conception of "total war," with which the aggressive wars were waged. For in this conception of "total war" the moral ideas underlying the conventions which seek to make war more humane are no longer regarded as having force or validity. Everything is made subordinate to the overmastering dictates of war. Rules, regulations, assurances, and treaties, all alike, are of no moment; and so, freed from the restraining influence of international law, the aggressive war is conducted by the Nazi leaders in the most barbaric way. Accordingly, war crimes were committed when and wherever the Fuehrer and his close associates thought them to be advantageous. They were for the most part the result of cold and criminal calculation.

On some occasions war crimes were deliberately planned long in advance. In the case of the Soviet Union, the plunder of the territories to be occupied, and the ill-treatment of the civilian population, were settled in minute detail before the attack was begun. As early as the autumn of 1940, the invasion of the territories of the Soviet Union was being considered. From that date onwards, the methods to be employed in destroying all possible opposition were continuously under discussion.

Similarly, when planning to exploit the inhabitants of the occupied countries for slave labor on the very greatest scale, the German Government conceived it as an integral part of the war economy, and planned and organized this particular war crime down to the last elaborate detail.

Other war crimes, such as the murder of prisoners of war who had escaped and been recaptured, or the murder of commandos or captured airmen, or the destruction of the Soviet commissars, were the result

of direct orders circulated through the highest official channels.

The Tribunal proposes, therefore, to deal quite generally with the question of war crimes, and to refer to them later when examining the responsibility of the individual defendants in relation to them. Prisoners of war were ill-treated and tortured and murdered, not only in defiance of the well-established rules of international law, but in complete disregard of the elementary dictates of humanity. Civilian populations in occupied territories suffered the same fate. Whole populations were deported to Germany for the purposes of slave labor upon defense works, armament production and similar tasks connected with war effort. Hostages were taken in very large numbers from the civilian populations in all the occupied countries, and were shot as suited the German purposes. Public and private property was systematically plundered and pillaged in order to enlarge the resources of Germany at the expense of the rest of Europe. Cities and towns and villages were wantonly destroyed without military justification or necessity.

(A) MURDER AND ILL-TREATMENT OF PRISONERS OF WAR

Article 6 (b) of the Charter defines war crimes in these words:

“War Crimes: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity.”

In the course of the war, many Allied soldiers who had surrendered to the Germans were shot immedi-

ately, often as a matter of deliberate, calculated policy. On the 18th October 1942, the defendant Keitel circulated a directive authorized by Hitler, which ordered that all members of Allied "commando" units, often when in uniform and whether armed or not, were to be "slaughtered to the last man," even if they attempted to surrender. It was further provided that if such Allied troops came into the hands of the military authorities after being first captured by the local police, or in any other way, they should be handed over immediately to the SD. This order was supplemented from time to time, and was effective throughout the remainder of the war, although after the Allied landings in Normandy in 1944 it was made clear that the order did not apply to "commandos" captured within the immediate battle area. Under the provisions of this order, Allied "commando" troops, and other military units operating independently, lost their lives in Norway, France, Czechoslovakia, and Italy. Many of them were killed on the spot, and in no case were those who were executed later in concentration camps ever given a trial of any kind. For example, an American military mission which landed behind the German front in the Balkans in January 1945, numbering about 12 to 15 men and wearing uniform, were taken to Mauthausen under the authority of this order, and according to the affidavit of Adolf Zutte, the adjutant of the Mauthausen Concentration Camp, all of them were shot.

In March 1944 the OKH issued the "Kugel" or "Bullet" decree, which directed that every escaped officer and NCO prisoner of war who had not been put to work, with the exception of British and American prisoners of war, should on recapture be handed over to the SIPO and SD. This order was distributed

by the SIPO and SD to their regional offices. These escaped officers and NCOs were to be sent to the concentration camp at Mauthausen, to be executed upon arrival, by means of a bullet shot in the neck.

In March 1944, 50 officers of the British Royal Air Force, who escaped from the camp at Sagan where they were confined as prisoners, were shot on recapture, on the direct orders of Hitler. Their bodies were immediately cremated, and the urns containing their ashes were returned to the camp. It was not contended by the defendants that this was other than plain murder, in complete violation of international law.

When Allied airmen were forced to land in Germany they were sometimes killed at once by the civilian population. The police were instructed not to interfere with these killings, and the Ministry of Justice was informed that no one should be prosecuted for taking part in them.

The treatment of Soviet prisoners of war was characterized by particular inhumanity. The death of so many of them was not due merely to the action of individual guards, or to the exigencies of life in the camps. It was the result of systematic plans to murder. More than a month before the German invasion of the Soviet Union the OKW were making special plans for dealing with political representatives serving with the Soviet armed forces who might be captured. One proposal was that "political Commissars of the army are not recognized as prisoners of war, and are to be liquidated at the latest in the transient prisoner of war camps." The defendant Keitel gave evidence that instructions incorporating this proposal were issued to the German army.

On the 8th September 1941, regulations for the treatment of Soviet prisoners of war in all prisoner

of war camps were issued, signed by General Reinecke, the head of the prisoner of war department of the high command. These orders stated:

“The Bolshevik soldier has therefore lost all claim to treatment as an honorable opponent, in accordance with the Geneva Convention * * * The order for ruthless and energetic action must be given at the slightest indication of insubordination, especially in the case of Bolshevik fanatics. Insubordination, active or passive resistance, must be broken immediately by force of arms (bayonets, butts, and firearms) * * * Anyone carrying out the order who does not use his weapons, or does so with insufficient energy, is punishable * * * Prisoners of war attempting escape are to be fired on without previous challenge. No warning shot must ever be fired * * * The use of arms against prisoners of war is as a rule legal.”

The Soviet prisoners of war were left without suitable clothing; the wounded without medical care; they were starved, and in many cases left to die.

On the 17th July 1941, the Gestapo issued an order providing for the killing of all Soviet prisoners of war who were or might be dangerous to National Socialism. * * *

In some cases Soviet prisoners of war were branded with a special permanent mark. There was put in evidence the OKW order dated the 20th July 1942, which laid down that:

“The brand is to take the shape of an acute angle of about 45 degrees, with the long side to be 1 cm. in length, pointing upwards and burnt on the left buttock * * * This brand is made with the aid of a lancet available in any military unit. The coloring used is Chinese ink.”

The carrying out of this order was the responsibility of the military authorities, though it was widely circulated by the chief of the SIPO and the SD to German police officials for information.

Soviet prisoners of war were also made the subject of medical experiments of the most cruel and in-

human kind. In July 1943, experimental work was begun in preparation for a campaign of bacteriological warfare; Soviet prisoners of war were used in these medical experiments, which more often than not proved fatal. In connection with this campaign for bacteriological warfare, preparations were also made for the spreading of bacterial emulsions from planes, with the object of producing widespread failures of crops and consequent starvation. These measures were never applied, possibly because of the rapid deterioration of Germany's military position.

The argument in defense of the charge with regard to the murder and ill-treatment of Soviet prisoners of war, that the USSR was not a party to the Geneva Convention, is quite without foundation. On the 15th September 1941, Admiral Canaris protested against the regulations for the treatment of Soviet prisoners of war, signed by General Reinecke on the 8th September 1941. He then stated:

"The Geneva Convention for the treatment of prisoners of war is not binding in the relationship between Germany and the USSR. Therefore only the principles of general international law on the treatment of prisoners of war apply. Since the 18th century these have gradually been established along the lines that war captivity is neither revenge nor punishment, but solely protective custody, the only purpose of which is to prevent the prisoners of war from further participation in the war. This principle was developed in accordance with the view held by all armies that it is contrary to military tradition to kill or injure helpless people . . . The decrees for the treatment of Soviet prisoners of war enclosed are based on a fundamentally different view-point."

This protest, which correctly stated the legal position, was ignored. The defendant Keitel made a note on this memorandum:

"The objections arise from the military concept of chivalrous warfare. This is the destruction of an ideology. Therefore I approve and back the measures."

(B) MURDER AND ILL-TREATMENT OF CIVILIAN
POPULATION

Article 6 (b) of the Charter provides that “ill-treatment * * * of civilian population of or in occupied territory * * * killing of hostages * * * wanton destruction of cities, towns, or villages” shall be a war crime. In the main, these provisions are merely declaratory of the existing laws of war as expressed by the Hague Convention, Article 46, which stated:

“Family honor and rights, the lives of persons and private property, as well as religious convictions and practice, must be respected.”

The territories occupied by Germany were administered in violation of the laws of war. The evidence is quite overwhelming of a systematic rule of violence, brutality, and terror. On the 7th December 1941, Hitler issued the directive since known as the “Nacht und Nebel Erlass” (night and fog decree), under which persons who committed offenses against the Reich or the German forces in occupied territories, except where the death sentence was certain, were to be taken secretly to Germany and handed over to the SIPO and SD for trial or punishment in Germany. This decree was signed by the defendant Keitel. After these civilians arrived in Germany, no word of them was permitted to reach the country from which they came, or their relatives; even in cases when they died awaiting trial the families were not informed, the purpose being to create anxiety in the minds of the family of the arrested person. Hitler’s purpose in issuing this decree was stated by the defendant Keitel in a covering letter, dated 12 December 1941, to be as follows:

“Efficient and enduring intimidation can only be achieved either by capital punishment or by measures by which the rela-

tives of the criminal and the population do not know the fate of the criminal. This aim is achieved when the criminal is transferred to Germany.”

Even persons who were only suspected of opposing any of the policies of the German occupation authorities were arrested, and on arrest were interrogated by the Gestapo and the SD in the most shameful manner. On the 12th June 1942, the chief of the SIPO and SD published, through Mueller, the Gestapo chief, an order authorizing the use of “third degree” methods of interrogation, where preliminary investigation had indicated that the person could give information on important matters, such as subversive activities, though not for the purpose of extorting confessions of the prisoner’s own crimes. This order provided:

“* * * Third degree may, under this supposition, only be employed against Communists, Marxists, Jehovah’s Witnesses, saboteurs, terrorists, members of resistance movements, parachute agents, antisocial elements, Polish or Soviet Russian loafers or tramps; in all other cases my permission must first be obtained * * * Third degree can, according to circumstances, consist amongst other methods of very simple diet (bread and water), hard bunk, dark cell, deprivation of sleep, exhaustive drilling, also in flogging (for more than twenty strokes a doctor must be consulted).”

The brutal suppression of all opposition to the German occupation was not confined to severe measures against suspected members of resistance movements themselves, but was also extended to their families. On the 19th July 1944, the commander of the SIPO and SD in the district of Radom, in Poland, published an order, transmitted through the higher SS and police leaders, to the effect that in all cases of assassination or attempted assassination of Germans, or where saboteurs had destroyed vital installations, not only the guilty person, but also

all his or her male relatives should be shot, and female relatives over 16 years of age put into a concentration camp. * * *

The practice of keeping hostages to prevent and to punish any form of civil disorder was resorted to by the Germans; an order issued by the defendant Keitel on the 16th September 1941, spoke in terms of fifty or a hundred lives from the occupied areas of the Soviet Union for one German life taken. The order stated that "it should be remembered that a human life in unsettled countries frequently counts for nothing, and a deterrent effect can be obtained only by unusual severity." The exact number of persons killed as a result of this policy is not known, but large numbers were killed in France and the other occupied territories in the west, while in the east the slaughter was on an even more extensive scale. In addition to the killing of hostages, entire towns were destroyed in some cases; such massacres as those of Oradour-sur-Glane in France and Lidice in Czechoslovakia, both of which were described to the Tribunal in detail, are examples of the organized use of terror by the occupying forces to beat down and destroy all opposition to their rule.

One of the most notorious means of terrorizing the people in occupied territories was the use of concentration camps. They were first established in Germany at the moment of the seizure of power by the Nazi Government. Their original purpose was to imprison without trial all those persons who were opposed to the Government, or who were in any way obnoxious to German authority. With the aid of a secret police force, this practice was widely extended, and in course of time concentration camps became places of organized and systematic murder, where millions of people were destroyed.

In the administration of the occupied territories the

concentration camps were used to destroy all opposition groups. The persons arrested by the Gestapo were as a rule sent to concentration camps. They were conveyed to the camps in many cases without any care whatever being taken for them, and great numbers died on the way. Those who arrived at the camp were subject to systematic cruelty. They were given hard physical labor, inadequate food, clothes, and shelter, and were subject at all times to the rigors of a soulless regime, and the private whims of individual guards. * * *

A certain number of the concentration camps were equipped with gas chambers for the wholesale destruction of the inmates, and with furnaces for the burning of the bodies. Some of them were, in fact, used for the extermination of Jews as part of the "final solution" of the Jewish problem. Most of the non-Jewish inmates were used for labor, although the conditions under which they worked made labor and death almost synonymous terms. Those inmates who became ill and were unable to work were either destroyed in the gas chambers or sent to special infirmaries, where they were given entirely inadequate medical treatment, worse food, if possible, than the working inmates, and left to die.

The murder and ill-treatment of civilian populations reached its height in the treatment of the citizens of the Soviet Union and Poland. * * *

The foregoing crimes against the civilian population are sufficiently appalling, and yet the evidence shows that at any rate in the east, the mass murders and cruelties were not committed solely for the purpose of stamping out opposition or resistance to the German occupying forces. In Poland and the Soviet Union these crimes were part of a plan to get rid of whole native populations by expulsion and annihilation, in order that their territory could be

used for colonization by Germans. Hitler had written in "Mein Kampf" on these lines, and the plan was clearly stated by Himmler in July 1942, when he wrote:

"It is not our task to Germanize the east in the old sense, that is to teach the people there the German language and the German law, but to see to it that only people of purely Germanic blood live in the east."

* * *

(C) PILLAGE OF PUBLIC AND PRIVATE PROPERTY

Article 49 of the Hague Convention provides that an occupying power may levy a contribution of money from the occupied territory to pay for the needs of the army of occupation, and for the administration of the territory in question. Article 52 of the Hague Convention provides that an occupying power may make requisitions in kind only for the needs of the army of occupation, and that these requisitions shall be in proportion to the resources of the country. These Articles, together with Article 48, dealing with the expenditure of money collected in taxes, and Articles 53, 55, and 56, dealing with public property, make it clear that under the rules of war, the economy of an occupied country can only be required to bear the expense of the occupation, and these should not be greater than the economy of the country can reasonably be expected to bear. Article 56 reads as follows:

"The property of municipalities, of religious, charitable, educational, artistic, and scientific institutions, although belonging to the State, is to be accorded the same standing as private property. All premeditated seizure, destruction or damage of such institutions, historical monuments, works of art, and science, is prohibited and should be prosecuted."

The evidence in this case has established, however, that the territories occupied by Germany were

exploited for the German war effort in the most ruthless way, without consideration of the local economy, and in consequence of a deliberate design and policy. There was in truth a systematic "plunder of public or private property," which was criminal under Article 6 (b) of the Charter. * * *

(D) SLAVE LABOR POLICY

Article 6 (b) of the Charter provides that the "ill-treatment or deportation to slave labor or for any other purpose, of civilian population of or in occupied territory" shall be a war crime. The laws relating to forced labor by the inhabitants of occupied territories are found in Article 52 of the Hague Convention, which provides:

"Requisition in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country."

The policy of the German occupation authorities was in flagrant violation of the terms of this convention. Some idea of this policy may be gathered from the statement made by Hitler in a speech on November 9, 1941:

"The territory which now works for us contains more than 250,000,000 men, but the territory which works indirectly for us includes now more than 350,000,000. In the measure in which it concerns German territory, the domain which we have taken under our administration, it is not doubtful that we shall succeed in harnessing the very last man to this work."

The actual results achieved were not so complete as this, but the German occupation authorities did succeed in forcing many of the inhabitants of the occupied territories to work for the German war effort,

and in deporting at least 5,000,000 person to Germany to serve German industry and agriculture.

In the early stages of the war, manpower in the occupied territories was under the control of various occupation authorities, and the procedure varied from country to country. In all the occupied territories compulsory labor service was promptly instituted. Inhabitants of the occupied countries were conscripted and compelled to work in local occupations, to assist the German war economy. In many cases they were forced to work on German fortifications and military installations. As local supplies of raw materials and local industrial capacity became inadequate to meet the German requirements, the system of deporting laborers to Germany was put into force. By the middle of April 1940 compulsory deportation of laborers to Germany had been ordered in the Government General; and a similar procedure was followed in other eastern territories as they were occupied. * * *

(E) PERSECUTION OF THE JEWS

The persecution of the Jews at the hands of the Nazi Government has been proved in the greatest detail before the Tribunal. It is a record of consistent and systematic inhumanity on the greatest scale. Ohlendorf, chief of Amt III in the RSHA from 1939 to 1943, and who was in command of one of the Einsatz groups in the campaign against the Soviet Union testified as to the methods employed in the extermination of the Jews. He said that he employed firing squads to shoot the victims in order to lessen the sense of individual guilt on the part of his men; and the 90,000 men, women, and children who were murdered in 1 year by his particular group were mostly Jews.

When the witness Bach-Zelewski was asked how Ohlendorf could admit the murder of 90,000 people, he replied:

"I am of the opinion that when, for years, for decades, the doctrine is preached that the Slav race is an inferior race, and Jews not even human, then such an outcome is inevitable."

But the defendant Frank spoke the final words of this chapter of Nazi history when he testified in this court:

"We have fought against Jewry; we have fought against it for years; and we have allowed ourselves to make utterances and my own diary has become a witness against me in this connection—utterances which are terrible * * *. A thousand years will pass and this guilt of Germany will still not be erased."

The anti-Jewish policy was formulated in point 4 of the party program which declared, "Only a member of the race can be a citizen. A member of the race can only be one who is of German blood, without consideration of creed. Consequently, no Jew can be a member of the race." Other points of the program declared that Jews should be treated as foreigners, that they should not be permitted to hold public office, that they should be expelled from the Reich if it were impossible to nourish the entire population of the State, that they should be denied any further immigration into Germany, and that they should be prohibited from publishing German newspapers. The Nazi Party preached these doctrines throughout its history. "Der Stuermer" and other publications were allowed to disseminate hatred of the Jews, and in the speeches and public declarations of the Nazi leaders, the Jews were held up to public ridicule and contempt.

With the seizure of power, the persecution of the Jews was intensified. A series of discriminatory laws was passed, which limited the offices and professions

permitted to Jews; and restrictions were placed on their family life and their rights of citizenship. By the autumn of 1938, the Nazi policy toward the Jews had reached the stage where it was directed toward the complete exclusion of Jews from German life. Pogroms were organized, which included the burning and demolishing of synagogues, the looting of Jewish businesses, and the arrest of prominent Jewish businessmen. A collective fine of 1 billion marks was imposed on the Jews, the seizure of Jewish assets was authorized, and the movement of Jews was restricted by regulations to certain specified districts and hours. The creation of ghettos was carried out on an extensive scale, and by an order of the security police Jews were compelled to wear a yellow star to be worn on the breast and back.

It was contended for the prosecution that certain aspects of this anti-Semitic policy were connected with the plans for aggressive war. The violent measures taken against the Jews in November 1938 were nominally in retaliation for the killing of an official of the German Embassy in Paris. But the decision to seize Austria and Czechoslovakia had been made a year before. The imposition of a fine of 1 billion marks was made, and the confiscation of the financial holdings of the Jews was decreed, at a time when German armament expenditure had put the German treasury in difficulties, and when the reduction of expenditure on armaments was being considered. These steps were taken, moreover, with the approval of the defendant Goering, who had been given responsibility for economic matters of this kind, and who was the strongest advocate of an extensive rearmament program notwithstanding the financial difficulties. * * *

The Nazi persecution of Jews in Germany before the war, severe and repressive as it was, cannot com-

pare, however, with the policy pursued during the war in the occupied territories. Originally the policy was similar to that which had been in force inside Germany. Jews were required to register, were forced to live in ghettos, to wear the yellow star, and were used as slave laborers. In the summer of 1941, however, plans were made for the "final solution" of the Jewish question in Europe. This "final solution" meant the extermination of the Jews, which early in 1939 Hitler had threatened would be one of the consequences of an outbreak of war, and a special section in the Gestapo under Adolf Eichmann, as head of section B-4, of the Gestapo, was formed to carry out the policy.

The plan for exterminating the Jews was developed shortly after the attack on the Soviet Union. Einsatzgruppen of the security police and SD, formed for the purpose of breaking the resistance of the population of the areas lying behind the German armies in the east, were given the duty of exterminating the Jews in those areas. The effectiveness of the work of the Einsatzgruppen is shown by the fact that in February 1942, Heydrich was able to report that Esthonia had already been cleared of Jews and that in Riga the number of Jews had been reduced from 29,500 to 2,500. Altogether the Einsatzgruppen operating in the occupied Baltic States killed over 135,000 Jews in 3 months.

Nor did these special units operate completely independently of the German armed forces. There is clear evidence that leaders of the Einsatzgruppen obtained the cooperation of army commanders. In one case the relations between an Einsatzgruppe and the military authorities was described at the time as being "very close, almost cordial"; in another case the smoothness of an Einsatzcommando's operation

was attributed to the "understanding for this procedure" shown by the army authorities. * * *

(F) THE LAW RELATING TO WAR CRIMES AND
CRIMES AGAINST HUMANITY

[After quoting Article 6 (b) and (c) of the Charter, the Tribunal continued:]

* * * The Tribunal is of course bound by the Charter, in the definition which it gives both of war crimes and crimes against humanity. With respect to war crimes, however, as has already been pointed out, the crimes defined by Article 6, section (b), of the Charter were already recognized as war crimes under international law. They were covered by Articles 46, 50, 52, and 56 of the Hague Convention of 1907, and Articles 2, 3, 4, 46, and 51 of the Geneva Convention of 1929. That violation of these provisions constituted crimes for which the guilty individuals were punishable is too well settled to admit of argument.

But it is argued that the Hague Convention does not apply in this case, because of the "general participation" clause in Article 2 of the Hague Convention of 1907. That clause provided:

"The provisions contained in the regulations (rules of land warfare) referred to in Article I as well as in the present convention do not apply except between contracting powers, and then only if all the belligerents are parties to the convention." Several of the belligerents in the recent war were not parties to this convention.

In the opinion of the Tribunal it is not necessary to decide this question. The rules of land warfare expressed in the convention undoubtedly represented an advance over existing international law at the time of their adoption. But the convention expressly stated that it was an attempt "to revise the general laws and customs of war," which it thus recognized

to be then existing, but by 1939 these rules laid down in the convention were recognized by all civilized nations, and were regarded as being declaratory of the laws and customs of war which are referred to in Article 6 (b) of the Charter.

A further submission was made that Germany was no longer bound by the rules of land warfare in many of the territories occupied during the war, because Germany had completely subjugated those countries and incorporated them into the German Reich, a fact which gave Germany authority to deal with the occupied countries as though they were part of Germany. In the view of the Tribunal it is unnecessary in this case to decide whether this doctrine of subjugation, dependent as it is upon military conquest, has any application where the subjugation is the result of the crime of aggressive war. The doctrine was never considered to be applicable so long as there was an army in the field attempting to restore the occupied countries to their true owners, and in this case, therefore, the doctrine could not apply to any territories occupied after the 1st September 1939. As to the war crimes committed in Bohemia and Moravia, it is a sufficient answer that these territories were never added to the Reich, but a mere protectorate was established over them.

With regard to crimes against humanity, there is no doubt whatever that political opponents were murdered in Germany before the war, and that many of them were kept in concentration camps in circumstances of great horror and cruelty. The policy of terror was certainly carried out on a vast scale, and in many cases was organized and systematic. The policy of persecution, repression, and murder of civilians in Germany before the war of 1939, who were likely to be hostile to the Government, was most ruthlessly carried out. The persecution of Jews

during the same period is established beyond all doubt. To constitute crimes against humanity, the acts relied on before the outbreak of war must have been in execution of, or in connection with, any crime within the jurisdiction of the Tribunal. The Tribunal is of the opinion that revolting and horrible as many of these crimes were, it has not been satisfactorily proved that they were done in execution of, or in connection with, any such crime. The Tribunal therefore cannot make a general declaration that the acts before 1939 were crimes against humanity within the meaning of the Charter, but from the beginning of the war in 1939 war crimes were committed on a vast scale, which were also crimes against humanity; and insofar as the inhumane acts charged in the indictment, and committed after the beginning of the war, did not constitute war crimes, they were all committed in execution of, or in connection with, the aggressive war, and therefore constituted crimes against humanity.

THE ACCUSED ORGANIZATIONS

[After referring to Articles 9 and 10 of the Charter, the Tribunal continued:]

* * * The effect of the declaration of criminality by the Tribunal is well illustrated by law No. 10 of the Control Council of Germany passed on the 20th day of December 1945, which provides:

“Each of the following acts is recognized as a crime:

* * * * *

“(d) Membership in categories of a criminal group or organization declared criminal by the International Military Tribunal.

* * * * *

“(3) Any person found guilty of any of the crimes above mentioned may upon conviction be punished as shall be determined

by the Tribunal to be just. Such punishment may consist of one or more of the following:

(a) Death.

(b) Imprisonment for life or a term of years, with or without hard labor.

(c) Fine, and imprisonment with or without hard labor, in lieu thereof."

In effect, therefore, a member of an organization which the Tribunal has declared to be criminal may be subsequently convicted of the crime of membership and be punished for that crime by death. This is not to assume that international or military courts which will try these individuals will not exercise appropriate standards of justice. This is a far-reaching and novel procedure. Its application, unless properly safeguarded, may produce great injustice.

Article 9, it should be noted, uses the words "The Tribunal may declare," so that the Tribunal is vested with discretion as to whether it will declare any organization criminal. This discretion is a judicial one and does not permit arbitrary action, but should be exercised in accordance with well-settled legal principles, one of the most important of which is that criminal guilt is personal, and that mass punishments should be avoided. If satisfied of the criminal guilt of any organization or group, this Tribunal should not hesitate to declare it to be criminal because the theory of "group criminality" is new, or because it might be unjustly applied by some subsequent tribunals. On the other hand, the Tribunal should make such declaration of criminality so far as possible in a manner to insure that innocent persons will not be punished.

A criminal organization is analogous to a criminal conspiracy in that the essence of both is cooperation for criminal purposes. There must be a group

bound together and organized for a common purpose. The group must be formed or used in connection with the commission of crimes denounced by the Charter. Since the declaration with respect to the organizations and groups will, as has been pointed out, fix the criminality of its members, that definition should exclude persons who had no knowledge of the criminal purposes or acts of the organization and those who were drafted by the State for membership, unless they were personally implicated in the commission of acts declared criminal by Article 6 of the Charter as members of the organization. Membership alone is not enough to come within the scope of these declarations.

Since declarations of criminality which the Tribunal makes will be used by other courts in the trial of persons on account of their membership in the organizations found to be criminal, the Tribunal feels it appropriate to make the following recommendations:

1. That so far as possible throughout the four zones of occupation in Germany the classifications, sanctions, and penalties be standardized. Uniformity of treatment so far as practical should be a basic principle. This does not, of course, mean that discretion in sentencing should not be vested in the court; but the discretion should be within fixed limits appropriate to the nature of the crime.

2. Law No. 10, to which reference has already been made, leaves punishment entirely in the discretion of the trial court even to the extent of inflicting the death penalty.

The de-Nazification law of March 5, 1946, however, passed for Bavaria, Greater-Hesse, and Wuerttemberg-Baden, provides definite sentences for punishment in each type of offense. The Tribunal recommends that in no case should punishment im-

posed under law No. 10 upon any members of an organization or group declared by the Tribunal to be criminal exceed the punishment fixed by the de-Nazification law. No person should be punished under both laws.

3. The Tribunal recommends to the Control Council that law No. 10 be amended to prescribe limitations on the punishment which may be imposed for membership in a criminal group or organization so that such punishment shall not exceed the punishment prescribed by the de-Nazification law.

The indictment asks that the Tribunal declare to be criminal the following organizations: The Leadership Corps of the Nazi Party; the Gestapo; the SD; the SS; the SA; the Reich Cabinet, and the General Staff and High Command of the German Armed Forces. . . .

(A) THE LEADERSHIP CORPS OF THE NAZI PARTY

* * * *Conclusion.*—The Leadership Corps was used for purposes which were criminal under the Charter and involved the Germanization of incorporated territory, the persecution of the Jews, the administration of the slave labor program, and the mistreatment of prisoners of war. The defendants Bormann and Sauckel, who were members of this organization, were among those who used it for these purposes. The Gauleiters, the Kreisleiters, and the Ortsgruppenleiters participated, to one degree or another, in these criminal programs. The Reichsleitung as the staff organization of the party is also responsible for these criminal programs as well as the heads of the various staff organizations of the Gauleiters and Kreisleiters. The decision of the Tribunal on these staff organizations includes only the Amtsleiters who were heads of offices on the staffs of the Reichsleitung, Gauleitung, and Kreisleitung. With respect to other

staff officers and party organizations attached to the Leadership Corps other than the Amtsleiter referred to above, the Tribunal will follow the suggestion of the prosecution in excluding them from the declaration.

The Tribunal declares to be criminal within the meaning of the Charter the group composed of those members of the Leadership Corps holding the positions enumerated in the preceding paragraph who became or remained members of the organization with knowledge that it was being used for the commission of acts declared criminal by Article 6 of the Charter, or who were personally implicated as members of the organization in the commission of such crimes. The basis of this finding is the participation of the organization in war crimes and crimes against humanity connected with the war; the group declared criminal cannot include, therefore, persons who had ceased to hold the positions enumerated in the preceding paragraph prior to 1 September 1939.

(B) GESTAPO AND SD

* * * *Conclusion.*—The Gestapo and SD were used for purposes which were criminal under the Charter involving the persecution and extermination of the Jews, brutalities and killings in concentration camps, excesses in the administration of occupied territories, the administration of the slave labor program, and the mistreatment and murder of prisoners of war. The defendant Kaltenbrunner, who was a member of this organization, was among those who used it for these purposes. In dealing with the Gestapo the Tribunal includes all executive and administrative officials of Amt IV of the RSHA or concerned with Gestapo administration in other departments of the RSHA and all local Gestapo officials serving both inside and outside of Germany, including the members of the frontier police, but not

including the members of the border and customs protection or the secret field police, except such members as have been specified above. At the suggestion of the prosecution the Tribunal does not include persons employed by the Gestapo for purely clerical, stenographic, janitorial, or similar unofficial routine tasks. In dealing with the SD the Tribunal includes Amter III, VI, and VII of the RSHA and all other members of the SD, including all local representatives and agents, honorary or otherwise, whether they were technically members of the SS or not, but not including honorary informers who were not members of the SS, and members of the Abwehr who were transferred to the SD.

The tribunal declares to be criminal within the meaning of the charter the group composed of those members of the Gestapo and SD holding the positions enumerated in the preceding paragraph who became or remained members of the organization with knowledge that it was being used for the commission of acts declared criminal by Article 6 of the Charter, or who were personally implicated as members of the organization in the commission of such crimes. The basis for this finding is the participation of the organization in war crimes and crimes against humanity connected with the war; this group declared criminal cannot include, therefore, persons who had ceased to hold the positions enumerated in the preceding paragraph prior to 1 September 1939.

(C) THE SS

* * * *Conclusions.*—The SS was utilized for purposes which were criminal under the Charter involving the persecution and extermination of the Jews, brutalities and killings in concentration camps, excesses in the administration of occupied territories, the administration of the slave labor program and the

mistreatment and murder of prisoners of war. The defendant Kaltenbrunner was a member of the SS implicated in these activities. In dealing with the SS the Tribunal includes all persons who have been officially accepted as members of the SS including the members of the Allgemeine SS, members of the Waffen SS, members of the SS Totenkopf Verbaende and the members of any of the different police forces who were members of the SS. The Tribunal does not include the so-called SS riding units. The Sicherheitsdienst des Reichsfuehrer SS (commonly known as the SD) is dealt with in the Tribunal's judgment on the Gestapo and SD.

The Tribunal declares to be criminal within the meaning of the Charter the group composed of those persons who had been officially accepted as members of the SS as enumerated in the preceding paragraph who became or remained members of the organization with knowledge that it was being used for the commission of acts declared criminal by Article 6 of the Charter, or who were personally implicated as members of the organization in the commission of such crimes, excluding, however, those who were drafted into membership by the State in such a way as to give them no choice in the matter, and who had committed no such crimes. The basis of this finding is the participation of the organization in war crimes and crimes against humanity connected with the war; this group declared criminal cannot include, therefore, persons who had ceased to belong to the organizations enumerated in the preceding paragraph prior to 1 September 1939.

(D) THE SA

* * * *Conclusion.*—Until the purge beginning on June 30, 1934, the SA was a group composed in large part of ruffians and bullies who participated in the

Nazi outrages of that period. It has not been shown, however, that these atrocities were part of a specific plan to wage aggressive war, and the Tribunal therefore cannot hold that these activities were criminal under the Charter. After the purge, the SA was reduced to the status of a group of unimportant Nazi hangers-on. Although in specific instances some units of the SA were used for the commission of war crimes and crimes against humanity, it cannot be said that its members generally participated in or even knew of the criminal acts. For these reasons, the Tribunal does not declare the SA to be a criminal organization within the meaning of Article 9 of the Charter.

(E) THE REICH CABINET

The prosecution has named as a criminal organization the Reich Cabinet (Die Reichsregierung) consisting of members of the ordinary cabinet after January 30, 1933, members of the council of ministers for the defense of the Reich and members of the secret cabinet council. The Tribunal is of opinion that no declaration of criminality should be made with respect to the Reich Cabinet for two reasons: (1) Because it is not shown that after 1937 it ever really acted as a group or organization; (2) because the group of persons here charged is so small that members could be conveniently tried in proper cases without resort to a declaration that the Cabinet of which they were members was criminal.

As to the first reason for our decision, it is to be observed that from the time that it can be said that a conspiracy to make aggressive war existed the Reich Cabinet did not constitute a governing body, but was merely an aggregation of administrative officers subject to the absolute control of Hitler. Not a single meeting of the Reich Cabinet was held after 1937, but laws were promulgated in the name of one

or more of the cabinet members. The Secret Cabinet Council never met at all. A number of the cabinet members were undoubtedly involved in the conspiracy to make aggressive war; but they were involved as individuals, and there is no evidence that the cabinet as a group or organization took any part in these crimes. It will be remembered that when Hitler disclosed his aims of criminal aggression at the Hossbach Conference, the disclosure was not made before the cabinet and that the cabinet was not consulted with regard to it, but, on the contrary, that it was made secretly to a small group upon whom Hitler would necessarily rely in carrying on the war. Likewise no cabinet order authorized the invasion of Poland. On the contrary, the defendant Schacht testifies that he sought to stop the invasion by a plea to the commander in chief of the army that Hitler's order was in violation of the constitution because not authorized by the cabinet.

It does appear, however, that various laws authorizing acts which were criminal under the Charter were circulated among the members of the Reich Cabinet and issued under its authority signed by the members whose departments were concerned. This does not, however, prove that the Reich Cabinet, after 1937, ever really acted as an organization.

As to the second reason, it is clear that those members of the Reich Cabinet who have been guilty of crimes should be brought to trial; and a number of them are now on trial before the Tribunal. It is estimated that there are 48 members of the group, that 8 of these are dead and 17 are now on trial, leaving only 23 at the most, as to whom the declaration could have any importance. Any others who are guilty should also be brought to trial; but nothing would be accomplished to expedite or facilitate their trials by declaring the Reich Cabinet to be a criminal

organization. Where an organization with a large membership is used for such purposes, a declaration obviates the necessity of inquiring as to its criminal character in the later trial of members who are accused of participating through membership in its criminal purposes and thus saves much time and trouble. There is no such advantage in the case of a small group like the Reich Cabinet.

(F) GENERAL STAFF AND HIGH COMMAND

The prosecution has also asked that the General Staff and High Command of the German armed forces be declared a criminal organization. The Tribunal believes that no declaration of criminality should be made with respect to the General Staff and High Command. The number of persons charged, while larger than that of the Reich Cabinet, is still so small that individual trials of these officers would accomplish the purpose here sought better than a declaration such as is requested. But a more compelling reason is that in the opinion of the Tribunal the General Staff and High Command is neither an "organization" nor a "group" within the meaning of those terms as used in Article 9 of the Charter.

Some comment on the nature of this alleged group is requisite. According to the indictment and evidence before the Tribunal, it consists of approximately 130 officers, living and dead, who at any time during the period from February 1938, when Hitler reorganized the armed forces, and May 1945, when Germany surrendered, held certain positions in the military hierarchy. These men were high-ranking officers in the three armed services: OKH—army, OKM—navy, and OKL—air force. Above them was the over-all armed forces authority, OKW—high command of the German armed forces with Hitler as the supreme commander. The officers.

in the OKW, including defendant Keitel as chief of the high command, were in a sense Hitler's personal staff. In the larger sense they coordinated and directed the three services, with particular emphasis on the functions of planning and operations.

The individual officers in this alleged group were, at one time or another, in one of four categories: (1) Commanders in chief of one of the three services; (2) chief of staff of one of the three services; (3) "Oberbefehlshabers," the field commanders in chief of one of the three services, which of course comprised by far the largest number of these persons; or (4) an OKW officer, of which there were three, defendants Keitel and Jodl, and the latter's deputy chief, Warlimont. This is the meaning of the indictment in its use of the term "General Staff and High Command."

The prosecution has here drawn the line. The prosecution does not indict the next level of the military hierarchy consisting of commanders of army corps, and equivalent ranks in the navy and air force, nor the level below, the division commanders or their equivalent in the other branches. And the staff officers of the four staff commands of OKW, OKH, OKM, and OKL are not included, nor are the trained specialists who were customarily called General Staff officers.

In effect, then, those indicted as members are military leaders of the Reich of the highest rank. No serious effort was made to assert that they composed an "organization" in the sense of Article 9. The assertion is rather that they were a "group," which is a wider and more embracing term than "organization."

The Tribunal does not so find. According to the evidence, their planning at staff level, the constant conferences between staff officers and field commanders, their operational technique in the field and

at headquarters was much the same as that of the armies, navies, and air forces of all other countries. The over-all effort of OKW at coordination and direction could be matched by a similar, though not identical form of organization in other military forces, such as the Anglo-American Combined Chiefs of Staff.

To derive from this pattern of their activities the existence of an association or group does not, in the opinion of the Tribunal, logically follow. On such a theory the top commanders of every other nation are just such an association rather than what they actually are, an aggregation of military men, a number of individuals who happen at a given period of time to hold the high-ranking military positions.

Much of the evidence and the argument has centered around the question of whether membership in these organizations was or was not voluntary; in this case, it seems to the Tribunal to be quite beside the point. For this alleged criminal organization has one characteristic, a controlling one, which sharply distinguishes it from the other five indicted. When an individual became a member of the SS for instance, he did so, voluntarily or otherwise, but certainly with the knowledge that he was joining something. In the case of the General Staff and High Command, however, he could not know he was joining a group or organization for such organization did not exist except in the charge of the indictment. He knew only that he had achieved a certain high rank in one of the three services, and could not be conscious of the fact that he was becoming a member of anything so tangible as a "group," as that word is commonly used. His relations with his brother officers in his own branch of the service and his association with those of the other two branches were, in general, like those of other services all over the world.

The Tribunal therefore does not declare the General Staff and High Command to be a criminal organization.

Although the Tribunal is of the opinion that the term "group" in Article 9 must mean something more than this collection of military officers, it has heard much evidence as to the participation of these officers in planning and waging aggressive war, and in committing war crimes and crimes against humanity. This evidence is, as to many of them, clear and convincing.

They have been responsible in large measure for the miseries and suffering that have fallen on millions of men, women, and children. They have been a disgrace to the honorable profession of arms. Without their military guidance the aggressive ambitions of Hitler and his fellow Nazis would have been academic and sterile. Although they were not a group falling within the words of the Charter, they were certainly a ruthless military caste. The contemporary German militarism flourished briefly with its recent ally, National Socialism, as well as or better than it had in the generations of the past.

Many of these men have made a mockery of the soldier's oath of obedience to military orders. When it suits their defense they say they had to obey; when confronted with Hitler's brutal crimes, which are shown to have been within their general knowledge, they say they disobeyed. The truth is they actively participated in all these crimes, or sat silent and acquiescent, witnessing the commission of crimes on a scale larger and more shocking than the world has ever had the misfortune to know. This must be said.

Where the facts warrant it, these men should be brought to trial so that those among them who are guilty of these crimes should not escape punishment.

THE ACCUSED INDIVIDUALS

Article 26 of the Charter provides that the judgment of the Tribunal as to the guilt or innocence of any defendant shall give the reasons on which it is based.

The Tribunal will now state those reasons in declaring its judgment on such guilt or innocence.

* * * [The Tribunal's discussion of the cases against the individual defendants, except those against Doenitz and Raeder, is omitted.]

DOENITZ

Doenitz is indicted on counts one, two, and three. In 1935 he took command of the first U-boat flotilla commissioned since 1918, became in 1936 Commander of the submarine arm, was made Vice Admiral in 1940, Admiral in 1942, and on January 30, 1943 Commander in Chief of the German Navy. On 1 May 1945, he became the Head of State, succeeding Hitler.

Crimes against peace.—Although Doenitz built and trained the German U-boat arm, the evidence does not show he was privy to the conspiracy to wage aggressive wars or that he prepared and initiated such wars. He was a line officer performing strictly tactical duties. He was not present at the important conferences when plans for aggressive wars were announced, and there is no evidence he was informed about the decisions reached there. Doenitz did, however, wage aggressive war within the meaning of that word as used by the Charter. Submarine warfare which began immediately upon the outbreak of war, was fully coordinated with the other branches of the Wehrmacht. It is clear that his U-boats, few in number at the time, were fully prepared to wage war.

It is true that until his appointment in January 1943 as Commander in Chief he was not an "Oberbefehlshaber." But this statement under-estimates the importance of Doenitz' position. He was no mere army or division commander. The U-boat arm was the principal part of the German fleet and Doenitz was its leader. The High Seas Fleet made a few minor, if spectacular, raids during the early years of the war but the real damage to the enemy was done almost exclusively by his submarines as the millions of tons of allied and neutral shipping sunk will testify. Doenitz was solely in charge of this warfare. The naval war command reserved for itself only the decision as to the number of submarines in each area. In the invasion of Norway, for example, Doenitz made recommendations in October 1939 as to submarine bases, which he claims were no more than a staff study, and in March 1940 he made out the operational orders for the supporting U-boats as discussed elsewhere in this judgment.

That his importance to the German war effort was so regarded is eloquently proved by Raeder's recommendation of Doenitz as his successor and his appointment by Hitler on 30 January 1943, as Commander in Chief of the Navy. Hitler too knew that submarine warfare was the essential part of Germany's naval warfare.

From January 1943, Doenitz was consulted almost continuously by Hitler. The evidence was that they conferred on naval problems about 120 times during the course of the war.

As late as April 1945, when he admits he knew the struggle was hopeless, Doenitz as its Commander in Chief urged the Navy to continue its fight. On 1 May 1945, he became the Head of State and as such ordered the Wehrmacht to continue its war in the east, until capitulation on 9 May 1945. Doenitz

explained that his reason for these orders was to insure that the German civilian population might be evacuated and the army might make an orderly retreat from the east.

In the view of the Tribunal, the evidence shows that Doenitz was active in waging aggressive war.

War crimes.—Doenitz is charged with waging unrestricted submarine warfare contrary to the Naval Protocol of 1936, to which Germany acceded, and which reaffirmed the rules of submarine warfare laid down in the London Naval Agreement of 1930.

The prosecution has submitted that on 3 September 1939, the German U-boat arm began to wage unrestricted submarine warfare upon all merchant ships, whether enemy or neutral, cynically disregarding the Protocol; and that a calculated effort was made throughout the war to disguise this practice by making hypocritical references to international law and supposed violations by the Allies.

Doenitz insists that at all times the Navy remained within the confines of international law and of the Protocol. He testified that when the war began, the guide to submarine warfare was the German prize ordinance taken almost literally from the Protocol, that pursuant to the German view, he ordered submarines to attack all merchant ships in convoy, and all that refused to stop or used their radio upon sighting a submarine. When his reports indicated that British merchant ships were being used to give information by wireless, were being armed, and were attacking submarines on sight, he ordered his submarines on 17 October 1939, to attack all enemy merchant ships without warning on the ground that resistance was to be expected. Orders already had been issued on 21 September 1939, to attack all ships, including neutrals, sailing at night without lights in the English Channel.

On 24 November 1939, the German Government issued a warning to neutral shipping that, owing to the frequent engagements taking place in the waters around the British Isles and the French coast between U-boats and Allied merchant ships which were armed and had instructions to use those arms as well as to ram U-boats, the safety of neutral ships in those waters could no longer be taken for granted. On 1 January 1940, the German U-boat command, acting on the instructions of Hitler, ordered U-boats to attack all Greek merchant ships in the zone surrounding the British Isles which was banned by the United States to its own ships and also merchant ships of every nationality in the limited area of the Bristol Channel. Five days later, a further order was given to U-boats to "make immediately unrestricted use of weapons against all ships" in an area of the North Sea, the limits of which were defined. Finally on the 18th of January 1940, U-boats were authorized to sink, without warning, all ships "in those waters near the enemy coasts in which the use of mines can be pretended." Exceptions were to be made in the cases of United States, Italian, Japanese, and Soviet ships.

Shortly after the outbreak of war the British Admiralty, in accordance with its Handbook of Instructions of 1938 to the merchant navy, armed its merchant vessels, in many cases convoyed them with armed escort, gave orders to send position reports upon sighting submarines, thus integrating merchant vessels into the warning network of naval intelligence. On 1 October 1939, the British Admiralty announced that British merchant ships had been ordered to ram U-boats if possible.

In the actual circumstances of this case, the Tribunal is not prepared to hold Doenitz guilty for his

conduct of submarine warfare against British armed merchant ships.

However, the proclamation of operational zones and the sinking of neutral merchant vessels which enter those zones presents a different question. This practice was employed in the war of 1914-18 by Germany and adopted in retaliation by Great Britain. The Washington conference of 1922, the London Naval Agreement of 1930, and the protocol of 1936 were entered into with full knowledge that such zones had been employed in the First World War. Yet the protocol made no exception for operational zones. The order of Doenitz to sink neutral ships without warning when found within these zones was, therefore, in the opinion of the Tribunal, a violation of the protocol.

It is also asserted that the German U-boat arm not only did not carry out the warning and rescue provisions of the protocol but that Doenitz deliberately ordered the killing of survivors of shipwrecked vessels, whether enemy or neutral. The prosecution has introduced much evidence surrounding two orders of Doenitz, war order No. 154, issued in 1939, and the so-called "Laconia" order of 1942. The defense argues that these orders and the evidence supporting them do not show such a policy and introduced much evidence to the contrary. The Tribunal is of the opinion that the evidence does not establish with the certainty required that Doenitz deliberately ordered the killing of shipwrecked survivors. The orders were undoubtedly ambiguous, and deserve the strongest censure.

The evidence further shows that the rescue provisions were not carried out and that the defendant ordered that they should not be carried out. The argument of the defense is that the security of the submarine is, as the first rule of the sea, paramount

to rescue and that the development of aircraft made rescue impossible. This may be so, but the protocol is explicit. If the commander cannot rescue, then under its terms he cannot sink a merchant vessel and should allow it to pass harmless before his periscope. These orders, then, prove Doenitz is guilty of a violation of the protocol.

In view of all of the facts proved and in particular of an order of the British Admiralty announced on 8 May 1940, according to which all vessels should be sunk at night in the Skagerrak, and the answers to interrogatories by Admiral Nimitz stating that unrestricted submarine warfare was carried on in the Pacific Ocean by the United States from the first day that Nation entered the war, the sentence of Doenitz is not assessed on the ground of his breaches of the international law of submarine warfare.

Doenitz was also charged with responsibility for Hitler's commando order of 18 October 1942. Doenitz admitted he received and knew of the order when he was flag officer of U-boats, but disclaimed responsibility. He points out that the order by its express terms excluded men captured in naval warfare, that the navy had no territorial commands on land, and that submarine commanders would never encounter commandos.

In one instance, when he was Commander in Chief of the Navy, in 1943, the members of the crew of an Allied motor torpedo boat were captured by German naval forces. They were interrogated for intelligence purposes on behalf of the local Admiral, and then turned over by his order to the SD and shot. Doenitz said that if they were captured by the Navy their execution was a violation of the commando order, that the execution was not announced in the Wehrmacht communique, and that

he was never informed of the incident. He pointed out that the Admiral in question was not in his chain of command, but was subordinate to the Army general in command of the Norway occupation. But Doenitz permitted the order to remain in full force when he became Commander in Chief, and to that extent he is responsible.

Doenitz, in a conference of 11 December 1944, said, "12,000 concentration camp prisoners will be employed in the shipyards as additional labor." At this time Doenitz had no jurisdiction over shipyard construction, and claims that this was merely a suggestion at the meeting that the responsible officials do something about the production of ships, that he took no steps to get these workers since it was not a matter for his jurisdiction and that he does not know whether they ever were procured. He admits he knew of concentration camps. A man in his position must necessarily have known that citizens of occupied countries in large numbers were confined in the concentration camps.

In 1945, Hitler requested the opinion of Jodl and Doenitz whether the Geneva Convention should be denounced. The notes of the meeting between the two military leaders on 20 February 1945, show that Doenitz expressed his view that the disadvantages of such an action outweighed the advantages. The summary of Doenitz' attitude shown in the notes taken by an officer, included the following sentence:

"It would be better to carry out the measures considered necessary without warning, and at all costs to save face with the outer world."

The prosecution insisted that "the measures" referred to meant the Convention should not be denounced, but should be broken at will. The defense explanation is that Hitler wanted to break

the Convention for two reasons: to take away from German troops the protection of the Convention, thus preventing them from continuing to surrender in large groups to the British and Americans; and also to permit reprisals against Allied prisoners of war because of Allied bombing raids. Doenitz claims that what he meant by "measures" were disciplinary measures against German troops to prevent them from surrendering, and that his words had no reference to measures against the Allies; moreover, that this was merely a suggestion, and that in any event no such measures were ever taken, either against Allies or Germans. The Tribunal, however, does not believe this explanation. The Geneva Convention was not, however, denounced by Germany. The defense has introduced several affidavits to prove that British naval prisoners of war in camps under Doenitz' jurisdiction were treated strictly according to the Convention, and the Tribunal takes this fact into consideration, regarding it as a mitigating circumstance.

Conclusion.—The Tribunal finds Doenitz is not guilty on count one of the indictment, and is guilty on counts two and three.

RAEDER

Raeder is indicted on counts one, two, and three. In 1928 he became Chief of Naval Command and in 1935 Oberbefehlshaber der Kriegsmarine (OKM); in 1939 Hitler made him Gross Admiral. He was a member of the Reich Defense Council. On 30 January 1943, Doenitz replaced him at his own request, and he became Admiral Inspector of the Navy, a nominal title.

Crimes against peace.—In the 15 years he commanded it, Raeder built and directed the German Navy; he accepts full responsibility until retirement

in 1943. He admits the navy violated the Versailles Treaty, insisting it was "a matter of honor for every man" to do so, and alleges that the violations were for the most part minor, and Germany built less than her allowable strength. These violations, as well as those of the Anglo-German Naval Agreement of 1935, have already been discussed elsewhere in this judgment.

Raeder received the directive of 24 June 1937, from von Blomberg, requiring special preparations for war against Austria. He was one of the five leaders present at the Hossbach Conference of 5 November 1937. He claims Hitler merely wished by this conference to spur the army to faster rearmament, insists he believed the questions of Austria and Czechoslovakia would be settled peacefully, as they were, and points to the new Naval treaty with England which had just been signed. He received no orders to speed construction of U-boats, indicating that Hitler was not planning war.

Raeder received directives on "Fall Gruen" and the directives on "Fall Weiss" beginning with that of 3 April 1939; the latter directed the navy to support the army by intervention from the sea. He was also one of the few chief leaders present at the meeting of 23 May 1939. He attended the Obersalzberg briefing of 22 August 1939.

The conception of the invasion of Norway first arose in the mind of Raeder and not that of Hitler. Despite Hitler's desire, as shown by his directive of October 1939, to keep Scandinavia neutral, the Navy examined the advantages of naval bases there as early as October. Admiral Karls originally suggested to Raeder the desirable aspects of bases in Norway. A questionnaire, dated 3 October 1939, which sought comments on the desirability of such bases, was circulated within SKL. On 10 October,

Raeder discussed the matter with Hitler; his war diary entry for that day says Hitler intended to give the matter consideration. A few months later Hitler talked to Raeder, Quisling, Keitel, and Jodl; OKW began its planning and the Naval War Staff worked with OKW staff officers. Raeder received Keitel's directive for Norway on 27 January 1940, and the subsequent directive of 1 March, signed by Hitler.

Raeder defends his actions on the ground it was a move to forestall the British. It is not necessary again to discuss this defense, which has heretofore been treated in some detail, concluding that Germany's invasion of Norway and Denmark was aggressive war. In a letter to the Navy, Raeder said: "The operations of the Navy in the occupation of Norway will for all time remain the great contribution of the Navy to this war."

Raeder received the directives, including the innumerable postponements, for the attack in the west. In a meeting of 18 March 1941 with Hitler he urged the occupation of all Greece. He claims this was only after the British had landed and Hitler had ordered the attack, and points out the navy had no interest in Greece. He received Hitler's directive on Yugoslavia.

Raeder endeavored to dissuade Hitler from embarking upon the invasion of the USSR. In September 1940 he urged on Hitler an aggressive Mediterranean policy as an alternative to an attack on Russia. On 14 November 1940, he urged the war against England "as our main enemy" and that submarine and naval air force construction be continued. He voiced "serious objections against the Russian campaign before the defeat of England," according to notes of the German naval war staff. He claims his objections were based on the violation of the Non-Aggres-

sion Pact as well as strategy. But once the decision had been made, he gave permission 6 days before the invasion of the Soviet Union to attack Russian submarines in the Baltic Sea within a specified warning area and defends this action because these submarines were "snooping" on German activities.

It is clear from this evidence that Raeder participated in the planning and waging of aggressive war.

War crimes.—Raeder is charged with war crimes on the high seas. The *Athenia*, an unarmed British passenger liner, was sunk on 3 September 1939, while outward bound to America. The Germans 2 months later charged that Mr. Churchill deliberately sank the *Athenia* to encourage American hostility to Germany. In fact, it was sunk by the German U-boat 30. Raeder claims that an inexperienced U-boat commander sank it in mistake for an armed merchant cruiser, that this was not known until the U-30 returned several weeks after the German denial and that Hitler then directed the Navy and Foreign Office to continue denying it. Raeder denied knowledge of the propaganda campaign attacking Mr. Churchill. The most serious charge against Raeder is that he carried out unrestricted submarine warfare, including sinking of unarmed merchant ships, of neutrals, nonrescue and machine-gunning of survivors, contrary to the London Protocol of 1936. The Tribunal makes the same finding on Raeder on this charge as it did as to Doenitz, which has already been announced, up until 30 January 1943, when Raeder retired.

The commando order of 18 October 1942, which expressly did not apply to naval warfare, was transmitted by the Naval War Staff to the lower naval commanders with the direction it should be distrib-

uted orally by flotilla leaders and section commanders to their subordinates. Two commandos were put to death by the Navy, and not by the SD, at Bordeaux on 10 December 1942. The comment of the Naval War Staff was that this was "in accordance with the Fuehrer's special order, but is nevertheless something new in international law, since the soldiers were in uniform." Raeder admits he passed the order down through the chain of command, and he did not object to Hitler.

Conclusion.—The Tribunal finds that Raeder is guilty on counts one, two, and three. * * *

1 October 1946

/s/ GEOFFREY LAW-	/s/ NIKITCHENKO
RENCE, <i>President</i>	/s/ NORMAN BIRKETT
/s/ FRANCIS BIDDLE	/s/ JOHN J. PARKER
/s/ H. DONNEDIEU DE	/s/ R. FALCO
VABRES	/s/ A. VOLCHKOV

DISSENTING OPINION

The Tribunal decided:

(a) To acquit the defendants Hjalmar Schacht, Franz von Papen, and Hans Fritzsche.

(b) To sentence the defendant Rudolf Hess to life imprisonment.

(c) Not to declare criminal the following organizations: the Reich Cabinet, General Staff and OKW.

In this respect I cannot agree with the decision adopted by the Tribunal as it does not correspond to the facts of the case and is based on incorrect conclusions. . . .

Soviet Member IMT, Major General Jurisprudence.

[signed] I. T. NIKITCHENKO.

1 October 1946.

(21) Tabulation of Nürnberg Sentences—Individual Defendants

	Count 1	Count 2	Count 3	Count 4	Sentence
Hermann Goering.....	C	C	C	C	Hanging.
Rudolf Hess.....	C	C	A	A	Life.
Joachim von Ribbentrop.....	C	C	C	C	Hanging.
Wilhelm Keitel.....	C	C	C	C	Hanging.
Ernst Kaltenbrunner.....	A	-----	C	C	Hanging.
Alfred Rosenberg.....	C	C	C	C	Hanging.
Hans Frank.....	A	-----	C	C	Hanging.
Wilhelm Frick.....	A	C	C	C	Hanging.
Julius Streicher.....	A	-----	-----	C	Hanging.
Walther Funk.....	A	C	C	C	Life.
Hjalmar Schacht.....	A	A	-----	-----	Acquitted.
Karl Doenitz.....	A	C	C	-----	10 Years.
Erich Raeder.....	C	C	C	-----	Life.
Baldur von Schirach.....	A	-----	-----	C	20 Years.
Fritz Sauckel.....	A	A	C	C	Hanging.
Alfred Jodl.....	C	C	C	C	Hanging.
Martin Bormann.....	A	-----	C	C	Hanging.
Franz von Papen.....	A	A	-----	-----	Acquitted.
Arthur Seyss-Inquart.....	A	C	C	C	Hanging.
Albert Speer.....	A	A	C	C	20 Years.
Constantin von Neurath.....	C	C	C	C	15 Years.
Hans Fritzsche.....	A	-----	A	A	Acquitted.

A=acquitted.

C=convicted.

INDICTED GROUPS AND ORGANIZATIONS

Reich Cabinet.....	Not criminal.
Leadership Corps of the Nazi Party.....	Criminal in part.
SS (<i>Schutzstaffeln</i>), including SD (<i>Sicherheitsdienst</i>).....	Criminal.
SA (<i>Sturmabteilung</i>).....	Not criminal.
Gestapo (<i>Geheime Staatspolizei</i>).....	Criminal.
General Staff and High Command of the Armed Forces.....	Not criminal.

(22) Resolution of the General Assembly of the United Nations, 11 December 1946

(Journal of the United Nations, No. 58, Supplement A, p. 485)

The General Assembly,
Recognizes the obligation laid upon it by Article 13, paragraph 1, sub-paragraph *a* of the Charter, to

initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification;

Takes note of the agreement for the establishment of an International Military Tribunal for the prosecution and punishment of the major war criminals of the European Axis, signed in London on 8 August 1945, and of the Charter annexed thereto, and of the fact that similar principles have been adopted in the Charter of the International Military Tribunal for the trial of the major war criminals in the Far East, proclaimed at Tokyo on 19 January 1946;

Therefore,

Affirms the principles of international law recognized by the Charter of the Nürnberg Tribunal and the judgment of the Tribunal;

Directs the Committee on the codification of international law established by the resolution of the General Assembly of 11 December 1946, to treat as a matter of primary importance plans for the formulation, in the context of a general codification of offences against the peace and security of mankind, or of an International Criminal Code, of the principles recognized in the Charter of the Nürnberg Tribunal and in the judgment of the Tribunal.

(23) Control Council for Germany Law No. 10, 20 December 1945

(Official Gazette of the Control Council for Germany, No. 3, p. 12)

**PUNISHMENT OF PERSONS GUILTY OF WAR CRIMES,
CRIMES AGAINST PEACE AND AGAINST HUMANITY**

In order to give effect to the terms of the Moscow Declaration of 30 October 1943 and the London Agreement of 8 August 1945, and the Charter issued pursuant thereto and in order to establish a uniform

legal basis in Germany for the prosecution of war criminals and other similar offenders, other than those dealt with by the International Military Tribunal,

The Control Council enacts as follows:

ARTICLE I.—The Moscow Declaration of 30 October 1943 “Concerning Responsibility of Hitlerites for Committed Atrocities” and the London Agreement of 8 August 1945 “Concerning Prosecution and Punishment of Major War Criminals of the European Axis” are made integral parts of this Law. Adherence to the provisions of the London Agreement by any of the United Nations, as provided for in Article V of that Agreement, shall not entitle such Nation to participate or interfere in the operation of this Law within the Control Council area of authority in Germany.

ARTICLE II.—1. Each of the following acts is recognized as a crime:

(a) *Crimes Against Peace*.—Initiation of invasions of other countries and wars of aggression in violation of international laws and treaties, including but not limited to planning, preparation, initiation or waging a war of aggression, or a war of violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing.

(b) *War Crimes*.—Atrocities or offenses against persons or property constituting violations of the laws or customs of war, including but not limited to murder, ill treatment or deportation to slave labour, or for any other purpose, of civilian population from occupied territory, murder or ill treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity.

(c) *Crimes Against Humanity*.—Atrocities and offenses, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape, or other inhumane acts committed against any civilian population, or persecutions on political, racial or religious grounds whether or not in violation of the domestic laws of the country where perpetrated.

(d) Membership in categories of a criminal group or organization declared criminal by the International Military Tribunal.

2. Any person, without regard to nationality or the capacity in which he acted, is deemed to have committed a crime as defined in paragraph 1 of this Article, if he

(a) was a principal or

(b) was an accessory to the commission of any such crime or ordered or abetted the same or

(c) took a consenting part therein or

(d) was connected with plans or enterprises involving its commission or

(e) was a member of any organization or group connected with the commission of any such crime or

(f) with reference to paragraph 1(a), if he held a high political, civil or military (including General Staff) position in Germany or in one of its Allies, cobelligerents or satellites or held high position in the financial, industrial or economic life of any such country.

3. Any person found guilty of any of the Crimes above mentioned may upon conviction be punished as shall be determined by the tribunal to be just. Such punishment may consist of one or more of the following:

(a) Death.

(b) Imprisonment for life or a term of years, with or without hard labour.

(c) Fine, and imprisonment with or without hard labour, in lieu thereof.

(d) Forfeiture of property.

(e) Restitution of property wrongfully acquired.

(f) Deprivation of some or all civil rights.

Any property declared to be forfeited or the restitution of which is ordered by the Tribunal shall be delivered to the Control Council for Germany, which shall decide on its disposal.

4. (a) The official position of any person, whether as Head of State or as a responsible official in a Government Department, does not free him from responsibility for a crime or entitle him to mitigation of punishment.

(b) The fact that any person acted pursuant to the order of his Government or of a superior does not free him from responsibility for a crime, but may be considered in mitigation.

5. In any trial or prosecution for a crime herein referred to, the accused shall not be entitled to the benefits of any statute of limitation in respect of the period from 30 January 1933 to 1 July 1945, nor shall any immunity, pardon or amnesty granted under the Nazi regime be admitted as a bar to trial or punishment.

ARTICLE III.—1. Each occupying authority, within its Zone of occupation,

(a) shall have the right to cause persons within such Zone suspected of having committed a crime, including those charged with crime by one of the United Nations, to be arrested and shall take under control the property, real and personal, owned or controlled by the said persons, pending decisions as to its eventual disposition.

(b) shall report to the Legal Directorate the names of all suspected criminals, the reasons for and the

places of their detention, if they are detained, and the names and location of witnesses.

(c) shall take appropriate measures to see that witnesses and evidence will be available when required.

(d) shall have the right to cause all persons so arrested and charged, and not delivered to another authority, as herein provided, or released, to be brought to trial before an appropriate tribunal. Such tribunal may, in the case of crimes committed by persons of German citizenship or nationality against other persons of German citizenship or nationality or stateless persons, be a German Court, if authorized by the occupying authorities.

2. The tribunal by which persons charged with offenses hereunder shall be tried and the rules and procedure thereof shall be determined or designated by each Zone Commander for his respective Zone. Nothing herein is intended to, or shall impair or limit the jurisdiction or power of any court or tribunal now or hereafter established in any Zone by the Commander thereof, or of the International Military Tribunal established by the London Agreement of 8 August 1945.

3. Persons wanted for trial by an International Military Tribunal will not be tried without the consent of the Committee of Chief Prosecutors. Each Zone Commander will deliver such persons who are within his Zone to that committee upon request and will make witnesses and evidence available to it.

4. Persons known to be wanted for trial in another Zone or outside Germany will not be tried prior to decision under Article IV unless the fact of their apprehension has been reported in accordance with Section 1 (b) of this Article, three months have elapsed thereafter, and no request for delivery of the

type contemplated by Article IV has been received by the Zone Commander concerned.

5. The execution of death sentences may be deferred by not to exceed one month after the sentence has become final when the Zone Commander concerned has reason to believe that the testimony of those under sentence would be of value in the investigation and trial of crimes within or without his Zone.

6. Each Zone Commander will cause such effect to be given to the judgment of courts of competent jurisdiction, with respect to the property taken under his control pursuant hereto, as he may deem proper in the interest of justice.

ARTICLE IV.—1. When any person in a Zone in Germany is alleged to have committed a crime, as defined in Article II, in a country other than Germany or in another Zone, the government of that nation or the Commander of the latter Zone, as the case may be, may request the Commander of the Zone in which the person is located for his arrest and delivery for trial to the country or Zone in which the crime was committed.

Such request for delivery shall be granted by the Commander receiving it unless he believes such person is wanted for trial or as a witness by an International Military Tribunal, or in Germany, or in a nation other than the one making the request, or the Commander is not satisfied that delivery should be made, in any of which cases he shall have the right to forward the said request to the Legal Directorate of the Allied Control Authority. A similar procedure shall apply to witnesses, material exhibits and other forms of evidence.

2. The Legal Directorate shall consider all requests referred to it, and shall determine the same in

accordance with the following principles, its determination to be communicated to the Zone Commander.

(a) A person wanted for trial or as a witness by an International Military Tribunal shall not be delivered for trial or required to give evidence outside Germany, as the case may be, except upon approval by the Committee of Chief Prosecutors acting under the London Agreement of 8 August 1945.

(b) A person wanted for trial by several authorities (other than an International Military Tribunal) shall be disposed of in accordance with the following priorities:

(1) If wanted for trial in the Zone in which he is, he should not be delivered unless arrangements are made for his return after trial elsewhere;

(2) If wanted for trial in a Zone other than that in which he is, he should be delivered to that Zone in preference to delivery outside Germany unless arrangements are made for his return to that Zone after trial elsewhere;

(3) If wanted for trial outside Germany by two or more of the United Nations, of one of which he is a citizen, that one should have priority;

(4) If wanted for trial outside Germany by several countries, not all of which are United Nations, United Nations should have priority;

(5) If wanted for trial outside Germany by two or more of the United Nations, then, subject to Article IV 2 b) 3) above, that which has the most serious charges against him, which are moreover supported by evidence, should have priority.

ARTICLE V.—The delivery, under Article IV of this law, of persons for trial shall be made on demands of the Governments or Zone Commanders in such a manner that the delivery of criminals to one jurisdic-

tion will not become the means of defeating or unnecessarily delaying the carrying out of justice in another place.

If within six months the delivered person has not been convicted by the Court of the Zone or country to which he has been delivered, then such person shall be returned upon demand of the Commander of the Zone where the person was located prior to delivery.

Done at Berlin, 20 December 1945.

JOSEPH T. McNARNEY,
General.

B. L. MONTGOMERY,
Field Marshal.

L. KOELTZ
Général de Corps d'Armée,
for P. KOENIG,
Général de Corps d'Armée,
G. ZHUKOV,
Marshal of the Soviet Union.

TRIALS IN THE FAR EAST

NOTE. The Charter of the International Military Tribunal for the Far East was approved by the Supreme Commander for the Allied Powers on 19 January 1946; following a policy decision taken by the Far Eastern Commission on 3 April 1946 (16 Department of State Bulletin 804), it was amended by the Supreme Commander on 26 April 1946. Its text follows quite closely that of the Charter of the International Military Tribunal of 8 August 1945. Twenty-eight Japanese were later indicted before the Tribunal on one or more of fifty-five counts. Department of State Publication 2613. Various trials were also conducted before national tribunals in the Far East.

(24) Proclamation by the Supreme Commander for the Allied Powers, Tokyo, 19 January 1946

(Treaties and Other International Acts Series 1589)

Whereas, the United States and the Nations allied therewith in opposing the illegal wars of aggression of the Axis Nations, have from time to time made declarations of their intentions that war criminals should be brought to justice;

Whereas, the Governments of the Allied Powers at war with Japan on the 26th July 1945 at Potsdam, declared as one of the terms of surrender that stern justice shall be meted out to all war criminals including those who have visited cruelties upon our prisoners;

Whereas, by the Instrument of Surrender of Japan executed at Tokyo Bay, Japan, on the 2nd September, 1945, the signatories for Japan, by command of and in behalf of the Emperor and the Japanese Government, accepted the terms set forth in such Declaration at Potsdam;

Whereas, by such Instrument of Surrender, the authority of the Emperor and the Japanese Government to rule the state of Japan is made subject to the Supreme Commander for the Allied Powers, who is authorized to take such steps as he deems proper to effectuate the terms of surrender;

Whereas, the undersigned has been designated by

the Allied Powers as Supreme Commander for the Allied Powers to carry into effect the general surrender of the Japanese armed forces;

Whereas, the Governments of the United States, Great Britain and Russia at the Moscow Conference, 26th December 1945, having considered the effectuation by Japan of the Terms of Surrender, with the concurrence of China have agreed that the Supreme Commander shall issue all Orders for the implementation of the Terms of Surrender.

Now, therefore, I, Douglas MacArthur, as Supreme Commander for the Allied Powers, by virtue of the authority so conferred upon me, in order to implement the Term of Surrender which requires the meting out of stern justice to war criminals, do order and provide as follows:

ARTICLE 1.—There shall be established an International Military Tribunal for the Far East for the trial of those persons charged individually, or as members of organizations, or in both capacities, with offenses which include crimes against peace.

ARTICLE 2.—The Constitution, jurisdiction and functions of this Tribunal are those set forth in the Charter of the International Military Tribunal for the Far East, approved by me this day.

ARTICLE 3.—Nothing in this Order shall prejudice the jurisdiction of any other international, national or occupation court, commission or other tribunal established or to be established in Japan or in any territory of a United Nation with which Japan has been at war, for the trial of war criminals.

Given under my hand at Tokyo, this 19th day of January, 1946.

DOUGLAS MACARTHUR,
General of the Army, United States Army
Supreme Commander for the Allied Powers.

(25) **Charter of the International Military Tribunal for the Far East, Tokyo, 19 January 1946.***

(Treaties and Other International Acts Series 1589.)

SECTION I. CONSTITUTION OF TRIBUNAL

ARTICLE 1. *Tribunal Established*.—The International Military Tribunal for the Far East is hereby established for the just and prompt trial and punishment of the major war criminals in the Far East. The permanent seat of the Tribunal is in Tokyo.

ARTICLE 2. *Members*.—The Tribunal shall consist of not less than six members nor more than eleven members, appointed by the Supreme Commander for the Allied Powers from the names submitted by the Signatories to the Instrument of Surrender, India, and the Commonwealth of the Philippines.

ARTICLE 3. *Officers and Secretariat*.

a. *President*.—The Supreme Commander for the Allied Powers shall appoint a Member to be President of the Tribunal.

b. *Secretariat*.

(1) The Secretariat of the Tribunal shall be composed of a General Secretary to be appointed by the Supreme Commander for the Allied Powers and such assistant secretaries, clerks, interpreters, and other personnel as may be necessary.

(2) The General Secretary shall organize and direct the work of the Secretariat.

(3) The Secretariat shall receive all documents addressed to the Tribunal, maintain the records of the Tribunal, provide necessary clerical services to the Tribunal and its members, and perform such other duties as may be designated by the Tribunal.

*The text embodies the amendments introduced on 26 April 1946.

ARTICLE 4. *Convening and Quorum, Voting, and Absence.*

a. Convening and Quorum. When as many as six members of the Tribunal are present, they may convene the Tribunal in formal session. The presence of a majority of all members shall be necessary to constitute a quorum.

b. Voting. All decisions and judgments of this Tribunal, including convictions and sentences, shall be by a majority vote of those members of the Tribunal present. In case the votes are evenly divided, the vote of the President shall be decisive.

c. Absence. If a member at any time is absent and afterwards is able to be present, he shall take part in all subsequent proceedings; unless he declares in open court that he is disqualified by reason of insufficient familiarity with the proceedings which took place in his absence.

SECTION II. JURISDICTION AND GENERAL PROVISIONS

ARTICLE 5. *Jurisdiction Over Persons and Offenses.*—The Tribunal shall have the power to try and punish Far Eastern war criminals who as individuals or as members of organizations are charged with offenses which include Crimes against Peace. The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

a. Crimes against Peace: Namely, the planning, preparation, initiation or waging of a declared or undeclared war of aggression, or a war in violation of international law, treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing;

b. Conventional War Crimes: Namely, violations of the laws or customs of war;

c. Crimes against Humanity: Namely, murder, ex-

termination, enslavement, deportation, and other inhumane acts committed before or during the war, or persecutions on political or racial grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated. Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any person in execution of such plan.

ARTICLE 6. *Responsibility of Accused*.—Neither the official position, at any time, of an accused, nor the fact that an accused acted pursuant to order of his government or of a superior shall, of itself, be sufficient to free such accused from responsibility for any crime with which he is charged, but such circumstances may be considered in mitigation of punishment if the Tribunal determines that justice so requires.

ARTICLE 7. *Rules of Procedure*.—The Tribunal may draft and amend rules of procedure consistent with the fundamental provisions of this Charter.

ARTICLE 8. *Counsel*.

a. Chief of Counsel.—The Chief of Counsel designated by the Supreme Commander for the Allied Powers is responsible for the investigation and prosecution of charges against war criminals within the jurisdiction of this Tribunal and will render such legal assistance to the Supreme Commander as is appropriate.

b. Associate Counsel.—Any United Nation with which Japan has been at war may appoint an Associate Counsel to assist the Chief of Counsel.

SECTION III. FAIR TRIAL FOR ACCUSED

ARTICLE 9. *Procedure for Fair Trial*.—In order to insure fair trial for the accused the following procedure shall be followed:

a. Indictment.—The indictment shall consist of a plain, concise, and adequate statement of each offense charged. Each accused shall be furnished, in adequate time for defense, a copy of the indictment, including any amendment, and of this Charter, in a language understood by the accused.

b. Language.—The trial and related proceedings shall be conducted in English and in the language of the accused. Translations of documents and other papers shall be provided as needed and requested.

c. Counsel for Accused.—Each accused shall have the right to be represented by counsel of his own selection, subject to the disapproval of such counsel at any time by the Tribunal. The accused shall file with the General Secretary of the Tribunal the name of his counsel. If an accused is not represented by counsel and in open court requests the appointment of counsel, the Tribunal shall designate counsel for him. In the absence of such request the Tribunal may appoint counsel for an accused if in its judgment such appointment is necessary to provide for a fair trial.

d. Evidence for Defense.—An accused shall have the right, through himself or through his counsel (but not through both), to conduct his defense, including the right to examine any witness, subject to such reasonable restrictions as the Tribunal may determine.

e. Production of Evidence for the Defense.—An accused may apply in writing to the Tribunal for the production of witnesses or of documents. The application shall state where the witness or document is

thought to be located. It shall also state the facts proposed to be proved by the witness or the document and the relevancy of such facts to the defense. If the Tribunal grants the application the Tribunal shall be given such aid in obtaining production of the evidence as the circumstances require.

ARTICLE 10. *Applications and Motions before Trial.*—All motions, applications, or other requests addressed to the Tribunal prior to the commencement of trial shall be made in writing and filed with the General Secretary of the Tribunal for action by the Tribunal.

SECTION IV. POWERS OF TRIBUNAL AND CONDUCT OF TRIAL

ARTICLE 11. *Powers.*—The Tribunal shall have the power:

a. To summon witnesses to the trial, to require them to attend and testify, and to question them.

b. To interrogate each accused and to permit comment on his refusal to answer any question.

c. To require the production of documents and other evidentiary material.

d. To require of each witness an oath, affirmation, or such declaration as is customary in the country of the witness, and to administer oaths.

e. To appoint officers for the carrying out of any task designated by the Tribunal, including the power to have evidence taken on commission.

ARTICLE 12. *Conduct of Trial.*—The Tribunal shall:

a. Confine the trial strictly to an expeditious hearing of the issues raised by the charges.

b. Take strict measures to prevent any action which would cause any unreasonable delay and rule out irrelevant issues and statements of any kind whatsoever.

c. Provide for the maintenance of order at the

trial and deal summarily with any contumacy, imposing appropriate punishment, including exclusion of any accused or his counsel from some or all further proceedings, but without prejudice to the determination of the charges.

d. Determine the mental and physical capacity of any accused to proceed to trial.

ARTICLE 13. *Evidence.*

a. Admissibility.—The Tribunal shall not be bound by technical rules of evidence. It shall adopt and apply to the greatest possible extent expeditious and non-technical procedure, and shall admit any evidence which it deems to have probative value. All purported admissions or statements of the accused are admissible.

b. Relevance.—The Tribunal may require to be informed of the nature of any evidence before it is offered in order to rule upon the relevance.

c. Specific evidence admissible.—In particular, and without limiting in any way the scope of the foregoing general rules, the following evidence may be admitted:

(1) A document, regardless of its security classification and without proof of its issuance or signature, which appears to the Tribunal to have been signed or issued by any officer, department, agency or member of the armed forces of any government.

(2) A report which appears to the Tribunal to have been signed or issued by the International Red Cross or a member thereof, or by a doctor of medicine or any medical service personnel, or by an investigator or intelligence officer, or by any other person who appears to the Tribunal to have personal knowledge of the matters contained in the report.

(3) An affidavit, deposition or other signed statement.

(4) A diary, letter or other document, including

sworn or unsworn statements, which appear to the Tribunal to contain information relating to the charge.

(5) A copy of a document or other secondary evidence of its contents, if the original is not immediately available.

d. Judicial Notice.—The Tribunal shall neither require proof of facts of common knowledge, nor of the authenticity of official government documents and reports of any nation or of the proceedings, records, and findings of military or other agencies of any of the United Nations.

e. Records, Exhibits, and Documents.—The transcript of the proceedings, and exhibits and documents submitted to the Tribunal, will be filed with the General Secretary of the Tribunal and will constitute part of the Record.

ARTICLE 14. *Place of Trial.*—The first trial will be held at Tokyo, and any subsequent trials will be held at such places as the Tribunal decides.

ARTICLE 15. *Course of Trial Proceedings.*—The proceedings at the Trial will take the following course:

a. The indictment will be read in court unless the reading is waived by all accused.

b. The Tribunal will ask each accused whether he pleads “guilty” or “not guilty.”

c. The prosecution and each accused (by counsel only, if represented) may make a concise opening statement.

d. The prosecution and defense may offer evidence, and the admissibility of the same shall be determined by the Tribunal.

e. The prosecution and each accused (by counsel only, if represented) may examine each witness and each accused who gives testimony.

f. Accused (by counsel only, if represented) may address the Tribunal.

g. The prosecution may address the Tribunal.

h. The Tribunal will deliver judgment and pronounce sentence.

SECTION V. JUDGMENT AND SENTENCE

ARTICLE 16. *Penalty*.—The Tribunal shall have the power to impose upon an accused, on conviction, death, or such other punishment as shall be determined by it to be just.

ARTICLE 17. *Judgment and review*.—The judgment will be announced in open court and will give the reasons on which it is based. The record of the trial will be transmitted directly to the Supreme Commander for the Allied Powers for his action. Sentence will be carried out in accordance with the Order of the Supreme Commander for the Allied Powers, who may at any time reduce or otherwise alter the sentence, except to increase its severity.

By command of General MACARTHUR:

RICHARD J. MARSHALL
Major General, General Staff Corps,
Chief of Staff.

(26) In re Yamashita

(Supreme Court of the United States, 4 February 1946 (327 U. S. 1))

Mr. CHIEF JUSTICE STONE delivered the opinion of the Court.

No. 61 Miscellaneous is an application for leave to file a petition for writs of habeas corpus and prohibition in this Court. No. 672 is a petition for certiorari to review an order of the Supreme Court of the Commonwealth of the Philippines (28 U. S. C. § 349), denying petitioner's application to that court for writs of habeas corpus and prohibition. As both

applications raise substantially like questions, and because of the importance and novelty of some of those presented, we set the two applications down for oral argument as one case.

From the petitions and supporting papers it appears that prior to September 3, 1945, petitioner was the Commanding General of the Fourteenth Army Group of the Imperial Japanese Army in the Philippine Islands. On that date he surrendered to and became a prisoner of war of the United States Army Forces in Baguio, Philippine Islands. On September 25th, by order of respondent, Lieutenant General Wilhelm D. Styer, Commanding General of the United States Army Forces, Western Pacific, which command embraces the Philippine Islands, petitioner was served with a charge prepared by the Judge Advocate General's Department of the Army, purporting to charge petitioner with a violation of the law of war. On October 8, 1945, petitioner, after pleading not guilty to the charge, was held for trial before a military commission of five Army officers appointed by order of General Styer. The order appointed six Army officers, all lawyers, as defense counsel. Throughout the proceedings which followed, including those before this Court, defense counsel have demonstrated their professional skill and resourcefulness and their proper zeal for the defense with which they were charged.

On the same date a bill of particulars was filed by the prosecution, and the commission heard a motion made in petitioner's behalf to dismiss the charge on the ground that it failed to state a violation of the law of war. On October 29th the commission was reconvened, a supplemental bill of particulars was filed, and the motion to dismiss was denied. The trial then proceeded until its conclusion on December 7, 1945, the commission hearing two hundred and

eighty-six witnesses, who gave over three thousand pages of testimony. On that date petitioner was found guilty of the offense as charged and sentenced to death by hanging.

The petitions for habeas corpus set up that the detention of petitioner for the purpose of the trial was unlawful for reasons which are now urged as showing that the military commission was without lawful authority or jurisdiction to place petitioner on trial, as follows:

(a) That the military commission which tried and convicted petitioner was not lawfully created, and that no military commission to try petitioner for violations of the law of war could lawfully be convened after the cessation of hostilities between the armed forces of the United States and Japan;

(b) That the charge preferred against petitioner fails to charge him with a violation of the law of war;

(c) That the commission was without authority and jurisdiction to try and convict petitioner because the order governing the procedure of the commission permitted the admission in evidence of depositions, affidavits and hearsay and opinion evidence, and because the commission's rulings admitting such evidence were in violation of the 25th and 38th Articles of War (10 U. S. C. §§ 1496, 1509) and the Geneva Convention (47 Stat. 2021), and deprived petitioner of a fair trial in violation of the due process clause of the Fifth Amendment;

(d) That the commission was without authority and jurisdiction in the premises because of the failure to give advance notice of petitioner's trial to the neutral power representing the interests of Japan as a belligerent as required by Article 60th of the Geneva Convention, 47 Stat. 2021, 2051.

On the same grounds the petitions for writs of

prohibition set up that the commission is without authority to proceed with the trial.

The Supreme Court of the Philippine Islands, after hearing argument, denied the petition for habeas corpus presented to it, on the ground, among others, that its jurisdiction was limited to an inquiry as to the jurisdiction of the commission to place petitioner on trial for the offense charged, and that the commission, being validly constituted by the order of General Styer, had jurisdiction over the person of petitioner and over the trial for the offense charged.

In *Ex parte Quirin*, 317 U. S. 1, we had occasion to consider at length the sources and nature of the authority to create military commissions for the trial of enemy combatants for offenses against the law of war. We there pointed out that Congress, in the exercise of the power conferred upon it by Article I, § 8, Cl. 10 of the Constitution to “define and punish * * * Offences against the Law of Nations * * *” of which the law of war is a part, had by the Articles of War (10 U. S. C. §§ 1471–1593) recognized the “military commission” appointed by military command, as it had previously existed in United States Army practice, as an appropriate tribunal for the trial and punishment of offenses against the law of war. Article 15 declares that the “provisions of these articles conferring jurisdiction upon courts martial shall not be construed as depriving military commissions * * * or other military tribunals of concurrent jurisdiction in respect of offenders or offenses that by statute or by the law of war may be triable by such military commissions * * * or other military tribunals.” See a similar provision of the Espionage Act of 1917, 50 U. S. C. § 38. Article 2 includes among those persons subject to the Articles of War the personnel of our own military establishment. But this, as Article 12 indicates, does

not exclude from the class of persons subject to trial by military commissions "any other person who by the law of war is subject to trial by military tribunals," and who, under Article 12, may be tried by court-martial, or under Article 15 by military commission.

We further pointed out that Congress, by sanctioning trial of enemy combatants for violations of the law of war by military commissions, had not attempted to codify the law of war or to mark its precise boundaries. Instead, by Article 15 it had incorporated, by reference, as within the preexisting jurisdiction of military commissions created by appropriate military command, all offenses which are defined as such by the law of war, and which may constitutionally be included within that jurisdiction. It thus adopted the system of military common law applied by military tribunals so far as it should be recognized and deemed applicable by the courts, and as further defined and supplemented by the Hague Convention, to which the United States and the Axis powers were parties.

We also emphasized in *Ex parte Quirin*, as we do here, that on application for habeas corpus we are not concerned with the guilt or innocence of the petitioners. We consider here only the lawful power of the commission to try the petitioner for the offense charged. In the present cases it must be recognized throughout that the military tribunals which Congress has sanctioned by the Articles of War are not courts whose rulings and judgments are made subject to review by this Court. See *Ex parte Vallandigham*, 1 Wall. 243; *In re Vidal*, 179 U. S. 126; cf. *Ex parte Quirin*, *supra*, 39. They are tribunals whose determinations are reviewable by the military authorities either as provided in the military orders constituting such tribunals or as provided by the Articles

of War. Congress conferred on the courts no power to review their determinations save only as it has granted judicial power "to grant writs of habeas corpus for the purpose of an inquiry into the cause of restraint of liberty." 28 U. S. C. §§ 451, 452. The courts may inquire whether the detention complained of is within the authority of those detaining the petitioner. If the military tribunals have lawful authority to hear, decide and condemn, their action is not subject to judicial review merely because they have made a wrong decision on disputed facts. Correction of their errors of decision is not for the courts but for the military authorities which are alone authorized to review their decisions. See *Dynes v. Hoover*, 20 How. 65, 81; *Runkle v. United States*, 122 U. S. 543, 555-556; *Carter v. McClaghry*, 183 U. S. 365; *Collins v. McDonald*, 258 U. S. 416. Cf. *Matter of Moran*, 203 U. S. 96, 105.

Finally, we held in *Ex parte Quirin*, *supra*, 24, 25, as we hold now, that Congress by sanctioning trials of enemy aliens by military commission for offenses against the law of war had recognized the right of the accused to make a defense. Cf. *Ex parte Kawato*, 317 U. S. 69. It has not foreclosed their right to contend that the Constitution or laws of the United States withhold authority to proceed with the trial. It has not withdrawn, and the Executive branch of the Government could not, unless there was suspension of the writ, withdraw from the courts the duty and power to make such inquiry into the authority of the commission as may be made by habeas corpus.

With these governing principles in mind we turn to the consideration of the several contentions urged to establish want of authority in the commission. We are not here concerned with the power of military

commissions to try civilians. See *Ex parte Milligan*, 4 Wall. 2, 132; *Sterling v. Constantin*, 287 U. S. 378; *Ex parte Quirin*, *supra*, 45. The Government's contention is that General Styer's order creating the commission conferred authority on it only to try the purported charge of violation of the law of war committed by petitioner, an enemy belligerent, while in command of a hostile army occupying United States territory during time of war. Our first inquiry must therefore be whether the present commission was created by lawful military command and, if so, whether authority could thus be conferred on the commission to place petitioner on trial after the cessation of hostilities between the armed forces of the United States and Japan.

The authority to create the commission.—General Styer's order for the appointment of the commission was made by him as Commander of the United States Army Forces, Western Pacific. His command includes, as part of a vastly greater area, the Philippine Islands, where the alleged offenses were committed, where petitioner surrendered as a prisoner of war, and where, at the time of the order convening the commission, he was detained as a prisoner in custody of the United States Army. The congressional recognition of military commissions and its sanction of their use in trying offenses against the law of war to which we have referred, sanctioned their creation by military command in conformity to long-established American precedents. Such a commission may be appointed by any field commander, or by any commander competent to appoint a general court-martial, as was General Styer, who had been vested with that power by order of the President. 2 Winthrop, *Military Law and Precedents*, 2d ed., *1302; cf. Article of War 8.

Here the commission was not only created by a

commander competent to appoint it, but his order conformed to the established policy of the Government and to higher military commands authorizing his action. In a proclamation of July 2, 1942 (56 Stat. 1964), the President proclaimed that enemy belligerents who during time of war, enter the United States, or any territory or possession thereof, and who violate the law of war, should be subject to the law of war and to the jurisdiction of military tribunals. Paragraph 10 of the Declaration of Potsdam of July 26, 1945, declared that “. . . stern justice shall be meted out to all war criminals, including those who have visited cruelties upon our prisoners.” U. S. Dept. of State Bull., Vol. XIII, No. 318, pp. 137–138. This Declaration was accepted by the Japanese government by its note of August 10, 1945. U. S. Dept. of State Bull., Vol. XIII, No. 320, p. 205.

By direction of the President, the Joint Chiefs of Staff of the American Military Forces, on September 12, 1945, instructed General MacArthur, Commander in Chief, United States Army Forces, Pacific, to proceed with the trial, before appropriate military tribunals, of such Japanese war criminals “as have been or may be apprehended.” By order of General MacArthur of September 24, 1945, General Styer was specifically directed to proceed with the trial of petitioner upon the charge here involved. This order was accompanied by detailed rules and regulations which General MacArthur prescribed for the trial of war criminals. These regulations directed, among other things, that review of the sentence imposed by the commission should be by the officer convening it, with “authority to approve, mitigate, remit, commute, suspend, reduce or otherwise alter the sentence imposed,” and directed that no sentence of death should be carried into effect until confirmed

by the Commander in Chief, United States Army Forces, Pacific.

It thus appears that the order creating the commission for the trial of petitioner was authorized by military command, and was in complete conformity to the Act of Congress sanctioning the creation of such tribunals for the trial of offenses against the law of war committed by enemy combatants. And we turn to the question whether the authority to create the commission and direct the trial by military order continued after the cessation of hostilities.

An important incident to the conduct of war is the adoption of measures by the military commander, not only to repel and defeat the enemy, but to seize and subject to disciplinary measures those enemies who, in their attempt to thwart or impede our military effort, have violated the law of war. *Ex parte Quirin, supra*, 28. The trial and punishment of enemy combatants who have committed violations of the law of war is thus not only a part of the conduct of war operating as a preventive measure against such violations, but is an exercise of the authority sanctioned by Congress to administer the system of military justice recognized by the law of war. That sanction is without qualification as to the exercise of this authority so long as a state of war exists—from its declaration until peace is proclaimed. See *United States v. Anderson*, 9 Wall. 56, 70; *The Protector*, 12 Wall. 700, 702; *McElrath v. United States*, 102 U. S. 426, 438; *Kahn v. Anderson*, 255 U. S. 1, 9–10. The war power, from which the commission derives its existence, is not limited to victories in the field. but carries with it the inherent power to guard against the immediate renewal of the conflict, and to remedy, at least in ways Congress has recognized, the evils which the military operations have produced. See *Stewart v. Kahn*, 11 Wall. 493, 507.

We cannot say that there is no authority to convene a commission after hostilities have ended to try violations of the law of war committed before their cessation, at least until peace has been officially recognized by treaty or proclamation of the political branch of the Government. In fact, in most instances the practical administration of the system of military justice under the law of war would fail if such authority were thought to end with the cessation of hostilities. For only after their cessation could the greater number of offenders and the principal ones be apprehended and subjected to trial.

No writer on international law appears to have regarded the power of military tribunals, otherwise competent to try violations of the law of war, as terminating before the formal state of war has ended.¹ In our own military history there have been numerous instances in which offenders were tried by military commission after the cessation of hostilities and before the proclamation of peace, for offenses against the law of war committed before the cessation of hostilities.²

The extent to which the power to prosecute violations of the law of war shall be exercised before peace is declared rests, nor with the courts, but with the

¹ The Commission on the Responsibility of the Authors of the War and on the Enforcement of Penalties of the Versailles Peace Conference, which met after cessation of hostilities in the First World War, were of the view that violators of the law of war could be tried by military tribunals. See Report of the Commission, March 9, 1919, 14 Am. J. Int. L. 95, 121. See also memorandum of American commissioners concurring on this point, *id.*, at p. 141. The treaties of peace concluded after World War I recognized the right of the Allies and of the United States to try such offenders before military tribunals. See Art. 228 of Treaty of Versailles, June 28, 1919; Art. 173 of Treaty of St. Germain, Sept. 10, 1919; Art. 157 of Treaty of Trianon, June 4, 1920.

The terms of the agreement which ended hostilities in the Boer War reserved the right to try, before military tribunals, enemy combatants who had violated the law of war. 95 British and Foreign State Papers (1901-1902) 160. See also trials cited in Colby, War Crimes, 23 Michigan Law Rev. 482, 496-7.

² See cases mentioned in *Ex parte Quirin*, *supra*, p. 32, note 10, and in 2 Winthrop, *supra*, *1310-1311, n. 5; 14 Op. A. G. 249 (Modoc Indian Prisoners).

political branch of the Government, and may itself be governed by the terms of an armistice or the treaty of peace. Here, peace has not been agreed upon or proclaimed. Japan, by her acceptance of the Potsdam declaration and her surrender, has acquiesced in the trials of those guilty of violations of the law of war. The conduct of the trial by the military commission has been authorized by the political branch of the Government, by military command, by international law and usage, and by the terms of the surrender of the Japanese government.

The charge.—Neither congressional action nor the military orders constituting the commission authorized it to place petitioner on trial unless the charge preferred against him is of a violation of the law of war. The charge, so far as now relevant, is that petitioner, between October 9, 1944 and September 2, 1945, in the Philippine Islands, “while commander of armed forces of Japan at war with the United States of America and its allies, unlawfully disregarded and failed to discharge his duty as commander to control the operations of the members of his command, permitting them to commit brutal atrocities and other high crimes against people of the United States and of its allies and dependencies, particularly the Philippines; and he * * * thereby violated the laws of war.”

Bills of particulars, filed by the prosecution by order of the commission, allege a series of acts, one hundred and twenty-three in number, committed by members of the forces under petitioner’s command during the period mentioned. The first item specifies the execution of “a deliberate plan and purpose to massacre and exterminate a large part of the civilian population of Batangas Province, and to devastate and destroy public, private and religious property

therein, as a result of which more than 25,000 men, women and children, all unarmed noncombatant civilians, were brutally mistreated and killed, without cause or trial, and entire settlements were devastated and destroyed wantonly and without military necessity." Other items specify acts of violence, cruelty and homicide inflicted upon the civilian population and prisoners of war, acts of wholesale pillage and the wanton destruction of religious monuments.

It is not denied that such acts directed against the civilian population of an occupied country and against prisoners of war are recognized in international law as violations of the law of war. Articles 4, 28, 46, and 47, Annex to the Fourth Hague Convention, 1907; 36 Stat. 2277, 2296, 2303, 2306-7. But it is urged that the charge does not allege that petitioner has either committed or directed the commission of such acts, and consequently that no violation is charged as against him. But this overlooks the fact that the gist of the charge is an unlawful breach of duty by petitioner as an army commander to control the operations of the members of his command by "permitting them to commit" the extensive and widespread atrocities specified. The question then is whether the law of war imposes on an army commander a duty to take such appropriate measures as are within his power to control the troops under his command for the prevention of the specified acts which are violations of the law of war and which are likely to attend the occupation of hostile territory by an uncontrolled soldiery, and whether he may be charged with personal responsibility for his failure to take such measures when violations result. That this was the precise issue to be tried was made clear by the statement of the prosecution at the opening of the trial.

It is evident that the conduct of military operations by troops whose excesses are unrestrained by the orders or efforts of their commander would almost certainly result in violations which it is the purpose of the law of war to prevent. Its purpose to protect civilian populations and prisoners of war from brutality would largely be defeated if the commander of an invading army could with impunity neglect to take reasonable measures for their protection. Hence the law of war presupposes that its violation is to be avoided through the control of the operations of war by commanders who are to some extent responsible for their subordinates.

This is recognized by the Annex to the Fourth Hague Convention of 1907, respecting the laws and customs of war on land. Article 1 lays down as a condition which an armed force must fulfill in order to be accorded the rights of lawful belligerents, that it must be "commanded by a person responsible for his subordinates." 36 Stat. 2295. Similarly Article 19 of the Tenth Hague Convention, relating to bombardment by naval vessels, provides that commanders in chief of the belligerent vessels "must see that the above Articles are properly carried out." 36 Stat. 2389. And Article 26 of the Geneva Red Cross Convention of 1929, 47 Stat. 2074, 2092, for the amelioration of the condition of the wounded and sick in armies in the field, makes it "the duty of the commanders-in-chief of the belligerent armies to provide for the details of execution of the foregoing articles, [of the convention] as well as for unforeseen cases * * *". And, finally, Article 43 of the Annex of the Fourth Hague Convention, 36 Stat. 2306, requires that the commander of a force occupying enemy territory, as was petitioner, "shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless

absolutely prevented, the laws in force in the country.”

These provisions plainly imposed on petitioner, who at the time specified was military governor of the Philippines, as well as commander of the Japanese forces, an affirmative duty to take such measures as were within his power and appropriate in the circumstances to protect prisoners of war and the civilian population. This duty of a commanding officer has heretofore been recognized, and its breach penalized by our own military tribunals.³ A like principle has been applied so as to impose liability on the United States in international arbitrations. *Case of Jeannaud*, 3 Moore, International Arbitrations, 3000; *Case of “The Zafiro”*, 5 Hackworth, Digest of International Law, 707.

We do not make the laws of war but we respect them so far as they do not conflict with the commands of Congress or the Constitution. There is no contention that the present charge, thus read, is without the support of evidence, or that the commission held petitioner responsible for failing to take measures which were beyond his control or inappropriate for a commanding officer to take in the circumstances.⁴

³ Failure of an officer to take measures to prevent murder of an inhabitant of an occupied country committed in his presence. Gen. Orders No. 221, Hq. Div. of the Philippines, August 17, 1901. And in Gen. Orders No. 264, Hq. Div. of the Philippines, September 9, 1901, it was held that an officer could not be found guilty for failure to prevent a murder unless it appeared that the accused had “the power to prevent” it.

⁴ In its findings the commission took account of the difficulties “faced by the Accused with respect not only to the swift and overpowering advance of American forces, but also to the errors of his predecessors, weaknesses in organization, equipment, supply . . . , training, communication, discipline and the morale of his troops,” and the “tactical situation, the character, training and capacity of staff officers and subordinate commanders as well as the traits of character . . . of his troops.” It nonetheless found that petitioner had not taken such measures to control his troops as were “required by the circumstances.” We do not weigh the evidence. We merely hold that the charge sufficiently states a violation against the law of war, and that the commission, upon the facts found, could properly find petitioner guilty of such a violation.

We do not here appraise the evidence on which petitioner was convicted. We do not consider what measures, if any, petitioner took to prevent the commission, by the troops under his command, of the plain violations of the law of war detailed in the bill of particulars, or whether such measures as he may have taken were appropriate and sufficient to discharge the duty imposed upon him. These are questions within the peculiar competence of the military officers composing the commission and were for it to decide. See *Smith v. Whitney*, 116 U. S. 167, 178. It is plain that the charge on which petitioner was tried charged him with a breach of his duty to control the operations of the members of his command, by permitting them to commit the specified atrocities. This was enough to require the commission to hear evidence tending to establish the culpable failure of petitioner to perform the duty imposed on him by the law of war and to pass upon its sufficiency to establish guilt.

Obviously charges of violations of the law of war triable before a military tribunal need not be stated with the precision of a common law indictment. Cf. *Collins v. McDonald*, *supra*, 420. But we conclude that the allegations of the charge, tested by any reasonable standard, adequately allege a violation of the law of war and that the commission had authority to try and decide the issue which it raised. Cf. *Dealy v. United States*, 152 U. S. 539; *Williamson v. United States*, 207 U. S. 425, 447; *Glasser v. United States*, 315 U. S. 60, 66, and cases cited.

The proceedings before the commission.—The regulations prescribed by General MacArthur governing the procedure for the trial of petitioner by the commission directed that the commission should admit such evidence “as in its opinion would be of assistance in proving or disproving the charge, or such as in the

commission's opinion would have probative value in the mind of a reasonable man," and that in particular it might admit affidavits, depositions or other statements taken by officers detailed for that purpose by military authority. The petitions in this case charged that in the course of the trial the commission received, over objection by petitioner's counsel, the deposition of a witness taken pursuant to military authority by a United States Army captain. It also, over like objection, admitted hearsay and opinion evidence tendered by the prosecution. Petitioner argues, as ground for the writ of habeas corpus, that Article 25⁵ of the Articles of War prohibited the reception in evidence by the commission of depositions on behalf of the prosecution in a capital case, and that Article 38⁶ prohibited the reception of hearsay and of opinion evidence.

We think that neither Article 25 nor Article 38 is applicable to the trial of an enemy combatant by a military commission for violations of the law of war. Article 2 of the Articles of War enumerates "the persons * * * subject to these articles," who are denominated, for purposes of the Articles, as "persons subject to military law." In general, the persons so enumerated are members of our own Army and of the personnel accompanying the Army. Enemy combatants are not included among them. Articles 12, 13 and 14, before the adoption of Article

⁵ Article 25 provides: "A duly authenticated deposition taken upon reasonable notice to the opposite party may be read in evidence before any military court or commission in any case not capital, or in any proceeding before a court of inquiry or a military board, . . . *Provided*, That testimony by deposition may be adduced for the defense in capital cases."

⁶ Article 38 provides: "The President may, by regulations, which he may modify from time to time, prescribe the procedure, including modes of proof, in cases before courts-martial, courts of inquiry, military commissions, and other military tribunals, which regulations shall insofar as he shall deem practicable, apply the rules of evidence generally recognized in the trial of criminal cases in the district courts of the United States: *Provided*, That nothing contrary to or inconsistent with these articles shall be so prescribed: . . ."

15 in 1916, made all "persons subject to military law" amenable to trial by courts-martial for any offense made punishable by the Articles of War. Article 12 makes triable by general court-martial "any other person who by the law of war is subject to trial by military tribunals." Since Article 2, in its 1916 form, includes some persons who, by the law of war, were, prior to 1916, triable by military commission, it was feared by the proponents of the 1916 legislation that in the absence of a saving provision, the authority given by Articles 12, 13 and 14 to try such persons before courts-martial might be construed to deprive the non-statutory military commission of a portion of what was considered to be its traditional jurisdiction. To avoid this, and to preserve that jurisdiction intact, Article 15 was added to the Articles.⁷ It declared that "The provisions of these articles conferring jurisdiction upon courts-martial shall not be construed as depriving military commissions * * * of concurrent jurisdiction in respect of offenders or offenses that * * * by the law of war may be triable by such military commissions."

By thus recognizing military commissions in order to preserve their traditional jurisdiction over enemy combatants unimpaired by the Articles, Congress gave sanction, as we held in *Ex parte Quirin*, to any

⁷ General Crowder, the Judge Advocate General, who appeared before Congress as sponsor for the adoption of Article 15 and the accompanying amendment of Article 25, in explaining the purpose of Article 15, said:

"Article 15 is new. We have included in article 2 as subject to military law a number of persons who are also subject to trial by military commission. A military commission is our common-law war court. It has no statutory existence, though it is recognized by statute law. As long as the articles embraced them in the designation 'persons subject to military law,' and provided that they might be tried by court-martial, I was afraid that, having made a special provision for their trial by court-martial, [Arts. 12, 13 and 14] it might be held that the provision operated to exclude trials by military commission and other war courts; so this new article was introduced: . . ." (Sen. R. 130, 64th Cong., 1st Sess., p. 40.)

use of the military commission contemplated by the common law of war. But it did not thereby make subject to the Articles of War persons other than those defined by Article 2 as being subject to the Articles, nor did it confer the benefits of the Articles upon such persons. The Articles recognized but one kind of military commission, not two. But they sanctioned the use of that one for the trial of two classes of persons, to one of which the Articles do, and to the other of which they do not, apply in such trials. Being of this latter class, petitioner cannot claim the benefits of the Articles, which are applicable only to the members of the other class. Petitioner, an enemy combatant, is therefore not a person made subject to the Articles of War by Article 2, and the military commission before which he was tried, though sanctioned, and its jurisdiction saved, by Article 15, was not convened by virtue of the Articles of War, but pursuant to the common law of war. It follows that the Articles of War, including Articles 25 and 38, were not applicable to petitioner's trial and imposed no restrictions upon the procedure to be followed. The Articles left the control over the procedure in such a case where it had previously been, with the military command.

Petitioner further urges that by virtue of Article 63 of the Geneva Convention of 1929, 47 Stat. 2052, he is entitled to the benefits afforded by the 25th and 38th Articles of War to members of our own forces. Article 63 provides: "Sentence may be pronounced against a prisoner of war only by the same courts and according to the same procedure as in the case of persons belonging to the armed forces of the detaining Power." Since petitioner is a prisoner of war, and as the 25th and 38th Articles of War apply to the trial of any person in our own armed forces, it is said that Article 63 requires them to be

applied in the trial of petitioner. But we think examination of Article 63 in its setting in the Convention plainly shows that it refers to sentence "pronounced against a prisoner of war" for an offense committed while a prisoner of war, and not for a violation of the law of war committed while a combatant.

Article 63 of the Convention appears in part 3, entitled "Judicial Suits," of Chapter 3, "Penalties Applicable to Prisoners of War," of § V, "Prisoners' Relations with the Authorities," one of the sections of Title III, "Captivity." All taken together relate only to the conduct and control of prisoners of war while in captivity as such. Chapter 1 of § V, Article 42 deals with complaints of prisoners of war because of the conditions of captivity. Chapter 2, Articles 43 and 44, relates to those of their number chosen by prisoners of war to represent them.

Chapter 3 of § V, Articles 45 through 67, is entitled "Penalties Applicable to Prisoners of War." Part 1 of that chapter, Articles 45 through 53, indicate what acts of prisoners of war, committed while prisoners, shall be considered offenses, and defines to some extent the punishment which the detaining power may impose on account of such offenses.⁸

⁸ Part 1 of Chapter 3, "General Provisions," provides in Articles 45 and 46 that prisoners of war are subject to the regulations in force in the armies of the detaining power, that punishments other than those provided "for the same acts for soldiers of the national armies" may not be imposed on prisoners of war, and that "Collective punishment for individual acts" is forbidden. Article 47 provides that "Acts constituting an offense against discipline, and particularly attempted escape, shall be verified immediately; for all prisoners of war, commissioned or not, preventive arrest shall be reduced to the absolute minimum. Judicial proceedings against prisoners of war shall be conducted as rapidly as the circumstances permit * * * In all cases, the duration of preventive imprisonment shall be deducted from the disciplinary or judicial punishment inflicted * * *"

Article 48 provides that prisoners of war, after having suffered "the judicial or disciplinary punishment which has been imposed on them" are not to be treated differently from other prisoners, but provides that "prisoners punished as a result of attempted escape may be subjected to special surveillance."

Punishment is of two kinds—"disciplinary" and "judicial," the latter being the more severe. Article 52 requires that leniency be exercised in deciding whether an offense requires disciplinary or judicial punishment, Part 2 of Chapter 3 is entitled "Disciplinary Punishments," and further defines the extent of such punishment, and the mode in which it may be imposed. Part 3, entitled "Judicial Suits," in which Article 63 is found, describes the procedure by which "judicial" punishment may be imposed. The three parts of Chapter 3, taken together, are thus a comprehensive description of the substantive offenses which prisoners of war may commit during their imprisonment, of the penalties which may be imposed on account of such offenses, and of the procedure by which guilt may be adjudged and sentence pronounced.

We think it clear, from the context of these recited provisions, that part 3, and Article 63 which it contains, apply only to judicial proceedings directed against a prisoner of war for offenses committed while a prisoner of war. Section V gives no indication that this part was designed to deal with offenses other than those referred to in parts 1 and 2 of Chapter 3.

We cannot say that the commission, in admitting evidence to which objection is now made, violated any act of Congress, treaty or military command

Article 49 recites that prisoners "given disciplinary punishment may not be deprived of the prerogatives attached to their rank." Articles 50 and 51 deal with escaped prisoners who have been retaken or prisoners who have attempted to escape. Article 52 provides: "Belligerents shall see that the competent authorities exercise the greatest leniency in deciding the question of whether an infraction committed by a prisoner of war should be punished by disciplinary or judicial measures. This shall be the case especially when it is a question of deciding on acts in connection with escape or attempted escape * * *

A prisoner may not be punished more than once because of the same act or the same count."

defining the commission's authority. For reasons already stated we hold that the commission's rulings on evidence and on the mode of conducting these proceedings against petitioner are not reviewable by the courts, but only by the reviewing military authorities. From this viewpoint it is unnecessary to consider what, in other situations, the Fifth Amendment might require, and as to that no intimation one way or the other is to be implied. Nothing we have said is to be taken as indicating any opinion on the question of the wisdom of considering such evidence, or whether the action of a military tribunal in admitting evidence, which Congress or controlling military command has directed to be excluded, may be drawn in question by petition for habeas corpus or prohibition.

Effect of failure to give notice of the trial to the protecting power.—Article 60 of the Geneva Convention of July 27, 1929, 47 Stat. 2051, to which the United States and Japan were signatories, provides that "At the opening of a judicial proceeding directed against a prisoner of war, the detaining Power shall advise the representative of the protecting Power thereof as soon as possible, and always before the date set for the opening of the trial." Petitioner relies on the failure to give the prescribed notice to the protecting power⁹ to establish want of authority in the commission to proceed with the trial.

For reasons already stated we conclude that Article 60 of the Geneva Convention, which appears in part 3, Chapter 3, § V, Title III of the Geneva Convention, applies only to persons who are subjected

⁹ Switzerland, at the time of the trial, was the power designated by Japan for the protection of Japanese prisoners of war detained by the United States, except in Hawaii. U. S. Dept. of State Bull., Vol. XIII, No. 317, p. 125.

to judicial proceedings for offenses committed while prisoners of war.¹⁰

¹⁰ One of the items of the bill of particulars, in support of the charge against petitioner, specifies that he permitted members of the armed forces under his command to try and execute three named and other prisoners of war, "subjecting to trial without prior notice to a representative of the protecting power, without opportunity to defend, and without counsel; denying opportunity to appeal from the sentence rendered; failing to notify the protecting power of the sentence pronounced; and executing a death sentence without communicating to the representative of the protecting power the nature and circumstances of the offense charged." It might be suggested that if Article 60 is inapplicable to petitioner it is inapplicable in the cases specified, and that hence he could not be lawfully held or convicted on a charge of failing to require the notice, provided for in Article 60, to be given.

As the Government insists, it does not appear from the charge and specifications that the prisoners in question were not charged with offenses committed by them as prisoners rather than with offenses against the law of war committed by them as enemy combatants. But apart from this consideration, independently of the notice requirements of the Geneva Convention, it is a violation of the law of war, on which there could be a conviction if supported by evidence, to inflict capital punishment on prisoners of war without affording to them opportunity to make a defense. 2 Winthrop, *supra*, *434-435, 1241; Article 84, Oxford Manual, Laws and Customs of War on Land; U. S. War Dept., Basic Field Manual, Rules of Land Warfare (1940) par. 356; Lieber's Code, G. O. No. 100 (1863) Instructions for the Government of Armies of the United States in the Field, par. 12; Spaight, War Rights on Land, 462, n.

Further, the commission, in making its findings, summarized as follows the charges, on which it acted, in three classes, any one of which, independently of the others if supported by evidence, would be sufficient to support the conviction: (1) execution or massacre without trial and maladministration generally of civilian internees and prisoners of war; (2) brutalities committed upon the civilian population, and (3) burning and demolition, without adequate military necessity, of a large number of homes, places of business, places of religious worship, hospitals, public buildings and educational institutions.

The commission concluded: "(1) That a series of atrocities and other high crimes have been committed by members of the Japanese armed forces" under command of petitioner "against people of the United States, their allies and dependencies * * *; that they were not sporadic in nature but in many cases were methodically supervised by Japanese officers and noncommissioned officers"; (2) that during the period in question petitioner "failed to provide effective control of * * * [his] troops, as was required by the circumstances." The commission said: "* * * where murder and rape and vicious, revengeful actions are widespread offenses, and there is no effective attempt by a commander to discover and control the criminal acts, such a commander may be held responsible, even criminally liable, for the lawless acts of his troops, depending upon their nature and the circumstances surrounding them."

The commission made no finding of non-compliance with the Geneva Convention. Nothing has been brought to our attention from which we could

It thus appears that the order convening the commission was a lawful order, that the commission was lawfully constituted, that petitioner was charged with violation of the law of war, and that the commission had authority to proceed with the trial, and in doing so did not violate any military, statutory, or constitutional command. We have considered, but find it unnecessary to discuss, other contentions which we find to be without merit. We therefore conclude that the detention of petitioner for trial and his detention upon his conviction, subject to the prescribed review by the military authorities, were lawful, and that the petition for certiorari, and leave to file in this Court petitions for writs of habeas corpus and prohibition should be, and they are

Denied.

MR. JUSTICE JACKSON took no part in the consideration or decision of these cases.

[Dissenting opinions by Mr. Justice Murphy and Mr. Justice Rutledge are not reproduced.]

conclude that the alleged non-compliance with Article 60 of the Geneva Convention had any relation to the commission's finding of a series of atrocities committed by members of the forces under petitioner's command, and that he failed to provide effective control of his troops, as was required by the circumstances; or which could support the petitions for habeas corpus on the ground that petitioner had been charged with or convicted for failure to require the notice prescribed by Article 60 to be given.

VI. INTERNATIONAL AGREEMENTS ON CIVIL AVIATION

NOTE.—Civil aviation has been the subject of general international legislation since 1919, the principal instruments being: the Convention on the Regulation of Aerial Navigation, Paris, 13 October 1919; the Inter-American Convention on Commercial Aviation, Habana, 20 February 1928; the Convention on International Air Transport, Warsaw, 12 October 1929; the Sanitary Convention for Aerial Navigation, The Hague, 12 April 1933; and the Convention relating to the Precautionary Attachment of Aircraft, Rome, 29 May 1933. A Conference on International Civil Aviation held at Chicago 1 November–7 December 1944, opened for signature four instruments: 1) an Interim Agreement on International Civil Aviation; 2) a Convention on International Civil Aviation; 3) an International Air Services Transit Agreement; 4) an International Air Transport Agreement; plus twelve annexes dealing with recommended technical practices in air navigation. The Interim Agreement entered into force on 6 June 1945; the Provisional International Civil Aviation Organization (PICAO) which it created was replaced by the permanent International Civil Aviation Organization (ICAO) established under the Convention when the latter entered into force on 4 April 1947. On 15 July 1947, the Convention was in force between forty-three States; a protocol to the Convention adopted by the first Assembly of ICAO on 27 May 1947 had not entered into force on 1 October 1947.

The Air Services Transit (or so-called “Two Freedoms”) Agreement, is in force on 1 October 1947 between some twenty-nine States, including the United States and the United Kingdom. The Air Transport (or “Five Freedoms”) Agreement was accepted by fifteen States; the United States announced its withdrawal from this Agreement on 25 July 1946, effective one year later. Similar announcements were made by Nicaragua, the Dominican Republic, and China in 1946. The pattern of current American policy is indicated in the United States-United Kingdom Air Services Agreement, signed in Bermuda on 11 February 1946. Agreement embodying the general principles of the Bermuda Agreement have subsequently been negotiated by the United States with other States, including France, Belgium, Brazil, Australia, New Zealand, India, China, Peru, Argentina, Chile, Paraguay and South Africa.

(27) Convention on International Civil Aviation, Chicago, 7 December 1944

(Treaties and Other International Acts Series 1591.)

PREAMBLE

Whereas the future development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to the general security; and

Whereas it is desirable to avoid friction and to

promote that cooperation between nations and peoples upon which the peace of the world depends;

Therefore, the undersigned governments having agreed on certain principles and arrangements in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically;

Have accordingly concluded this Convention to that end.

PART I. AIR NAVIGATION

CHAPTER I. GENERAL PRINCIPLES AND APPLICATION OF THE CONVENTION

ARTICLE 1.—The contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory.

ARTICLE 2.—For the purposes of this Convention the territory of a State shall be deemed to be the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of such State.

ARTICLE 3.—(a) This Convention shall be applicable only to civil aircraft, and shall not be applicable to state aircraft.

(b) Aircraft used in military, customs and police services shall be deemed to be state aircraft.

(c) No state aircraft of a contracting State shall fly over the territory of another State or land thereon without authorization by special agreement or otherwise, and in accordance with the terms thereof.

(d) The contracting States undertake, when issuing regulations for their state aircraft, that they will have due regard for the safety of navigation of civil aircraft.

ARTICLE 4.—Each contracting State agrees not to use civil aviation for any purpose inconsistent with the aims of this Convention.

CHAPTER II. FLIGHT OVER TERRITORY OF CONTRACTING STATES

ARTICLE 5.—Each contracting State agrees that all aircraft of the other contracting States, being aircraft not engaged in scheduled international air services shall have the right, subject to the observance of the terms of this Convention, to make flights into or in transit non-stop across its territory and to make stops for non-traffic purposes without the necessity of obtaining prior permission, and subject to the right of the State flown over to require landing. Each contracting State nevertheless reserves the right, for reasons of safety of flight, to require aircraft desiring to proceed over regions which are inaccessible or without adequate air navigation facilities to follow prescribed routes, or to obtain special permission for such flights.

Such aircraft, if engaged in the carriage of passengers, cargo, or mail for remuneration or hire on other than scheduled international air services, shall also, subject to the provisions of Article 7, have the privilege of taking on or discharging passengers, cargo, or mail, subject to the right of any State where such embarkation or discharge takes place to impose such regulations, conditions or limitations as it may consider desirable.

ARTICLE 6.—No scheduled international air service may be operated over or into the territory of a contracting State, except with the special permission or other authorization of that State, and in accordance with the terms of such permission or authorization.

ARTICLE 7.—Each contracting State shall have the right to refuse permission to the aircraft of other contracting States to take on in its territory passengers, mail and cargo carried for remuneration or hire and destined for another point within its territory. Each contracting State undertakes not to enter into any arrangements which specifically grant any such privilege on an exclusive basis to any other State or an airline or any other State, and not to obtain any such exclusive privilege from any other State.

ARTICLE 8.—No aircraft capable of being flown without a pilot shall be flown without a pilot over the territory of a contracting State without special authorization by that State and in accordance with the terms of such authorization. Each contracting State undertakes to insure that the flight of such aircraft without a pilot in regions open to civil aircraft shall be so controlled as to obviate danger to civil aircraft.

ARTICLE 9.—(a) Each contracting State may, for reasons of military necessity or public safety, restrict or prohibit uniformly the aircraft of other States from flying over certain areas of its territory, provided that no distinction in this respect is made between the aircraft of the State whose territory is involved, engaged in international scheduled airline services, and the aircraft of the other contracting States likewise engaged. Such prohibited areas shall be of reasonable extent and location so as not to interfere unnecessarily with air navigation. Descriptions of such prohibited areas in the territory of a contracting State, as well as any subsequent alterations therein, shall be communicated as soon as possible to the other contracting States and to the International Civil Aviation Organization.

(b) Each contracting State reserves also the right,

in exceptional circumstances or during a period of emergency, or in the interest of public safety, and with immediate effect, temporarily to restrict or prohibit flying over the whole or any part of its territory, on condition that such restriction or prohibition shall be applicable without distinction of nationality to aircraft of all other States.

(c) Each contracting State, under such regulations as it may prescribe, may require any aircraft entering the areas contemplated in subparagraphs (a) or (b) above to effect a landing as soon as practicable thereafter at some designated airport within its territory.

ARTICLE 10.—Except in a case where, under the terms of this Convention or a special authorization aircraft are permitted to cross the territory of a contracting State without landing, every aircraft which enters the territory of a contracting State shall, if the regulations of that State so require, land at an airport designated by that State for the purpose of customs and other examination. On departure from the territory of a contracting State, such aircraft shall depart from a similarly designated customs airport. Particulars of all designated customs airports shall be published by the State and transmitted to the International Civil Aviation Organization established under Part II of this Convention for communication to all other contracting States.

ARTICLE 11.—Subject to the provisions of this Convention, the laws and regulations of a contracting State relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of all contracting States without distinction as to nationality, and shall be complied

with by such aircraft upon entering or departing from or while within the territory of that State.

ARTICLE 12.—Each contracting State undertakes to adopt measures to insure that every aircraft flying over or maneuvering within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and maneuver of aircraft there in force. Each contracting State undertakes to keep its own regulations in these respects uniform, to the greatest possible extent, with those established from time to time under this Convention. Over the high seas, the rules in force shall be those established under this Convention. Each contracting State undertakes to insure the prosecution of all persons violating the regulations applicable.

ARTICLE 13.—The laws and regulations of a contracting State as to the admission to or departure from its territory of passengers, crew or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew or cargo upon entrance into or departure from, or while within the territory of that State.

ARTICLE 14.—Each contracting State agrees to take effective measures to prevent the spread by means of air navigation of cholera, typhus, (epidemic), smallpox, yellow fever, plague, and such other communicable diseases as the contracting States shall from time to time decide to designate, and to that end contracting States will keep in close consultation with the agencies concerned with international regulations relating to sanitary measures applicable to aircraft. Such consultation shall be without prejudice to the application of any existing

international convention on this subject to which the contracting States may be parties.

ARTICLE 15.—Every airport in a contracting State which is open to public use by its national aircraft shall likewise, subject to the provisions of Article 68, be open under uniform conditions to the aircraft of all the other contracting States. The like uniform conditions shall apply to the use, by aircraft of every contracting State, of all air navigation facilities, including radio and meteorological services, which may be provided for public use for the safety and expedition of air navigation.

Any charges that may be imposed or permitted to be imposed by a contracting State for the use of such airports and air navigation facilities by the aircraft of any other contracting State shall not be higher,

(a) As to aircraft not engaged in scheduled international air services, than those that would be paid by its national aircraft of the same class engaged in similar operations, and

(b) As to aircraft engaged in scheduled international air services, than those that would be paid by its national aircraft engaged in similar international air services.

All such charges shall be published and communicated to the International Civil Aviation Organization: provided that, upon representation by an interested contracting State, the charges imposed for the use of airports and other facilities shall be subject to review by the Council, which shall report and make recommendations thereon for the consideration of the State or States concerned. No fees, dues or other charges shall be imposed by any contracting State in respect solely of the right of transit over or entry into or exit from its territory of any aircraft

of a contracting State or persons or property thereon.

ARTICLE 16.—The appropriate authorities of each of the contracting States shall have the right, without unreasonable delay, to search aircraft of the other contracting States on landing or departure, and to inspect the certificates and other documents prescribed by this Convention.

CHAPTER III. NATIONALITY OF AIRCRAFT

ARTICLE 17.—Aircraft have the nationality of the State in which they are registered.

ARTICLE 18.—An aircraft cannot be validly registered in more than one State, but its registration may be changed from one State to another.

ARTICLE 19.—The registration or transfer of registration of aircraft in any contracting State shall be made in accordance with its laws and regulations.

ARTICLE 20.—Every aircraft engaged in international air navigation shall bear its appropriate nationality and registration marks.

ARTICLE 21.—Each contracting State undertakes to supply to any other contracting State or to the International Civil Aviation Organization, on demand, information concerning the registration and ownership of any particular aircraft registered in that State. In addition, each contracting State shall furnish reports to the International Civil Aviation Organization, under such regulations as the latter may prescribe, giving such pertinent data as can be made available concerning the ownership and control of aircraft registered in that State and habitually engaged in international air navigation. The data thus obtained by the International Civil Aviation Organization shall be made available by it on request to the other contracting States.

CHAPTER IV. MEASURES TO FACILITATE AIR NAVIGATION

ARTICLE 22.—Each contracting State agrees to adopt all practicable measures, through the issuance of special regulations or otherwise, to facilitate and expedite navigation by aircraft between the territories of contracting States, and to prevent unnecessary delays to aircraft, crews, passengers and cargo, especially in the administration of the laws relating to immigration, quarantine, customs and clearance.

ARTICLE 23.—Each contracting State undertakes, so far as it may find practicable, to establish customs and immigration procedures affecting international air navigation in accordance with the practices which may be established or recommended from time to time, pursuant to this Convention. Nothing in this Convention shall be construed as preventing the establishment of customs-free airports.

ARTICLE 24.—(a) Aircraft on a flight to, from, or across the territory of another contracting State shall be admitted temporarily free of duty, subject to the customs regulations of the State. Fuel, lubricating oils, spare parts, regular equipment and aircraft stores on board an aircraft of a contracting State, on arrival in the territory of another contracting State and retained on board on leaving the territory of that State shall be exempt from customs duty, inspection fees or similar national or local duties and charges. This exemption shall not apply to any quantities or articles unloaded, except in accordance with the customs regulations of the State, which may require that they shall be kept under customs supervision.

(b) Spare parts and equipment imported into the territory of a contracting State for incorporation in or use on an aircraft of another contracting State engaged in international air navigation shall be

admitted free of customs duty, subject to compliance with the regulations of the State concerned, which may provide that the articles shall be kept under customs supervision and control.

ARTICLE 25.—Each contracting State undertakes to provide such measures of assistance to aircraft in distress in its territory as it may find practicable, and to permit, subject to control by its own authorities, the owners of the aircraft or authorities of the State in which the aircraft is registered to provide such measures of assistance as may be necessitated by the circumstances. Each contracting State, when undertaking search for missing aircraft, will collaborate in coordinated measures which may be recommended from time to time pursuant to this Convention.

ARTICLE 26.—In the event of an accident to an aircraft of a contracting State occurring in the territory of another contracting State, and involving death or serious injury, or indicating serious technical defect in the aircraft or air navigation facilities, the State in which the accident occurs will institute an inquiry into the circumstances of the accident, in accordance, so far as its laws permit, with the procedure which may be recommended by the International Civil Aviation Organization. The State in which the aircraft is registered shall be given the opportunity to appoint observers to be present at the inquiry and the State holding the inquiry shall communicate the report and findings in the matter to that State.

ARTICLE 27.—(a) While engaged in international air navigation, any authorized entry of aircraft of a contracting State into the territory of another contracting State or authorized transit across the territory of such State with or without landings shall not entail any seizure or detention of the aircraft or any claim against the owner or operator thereof or

any other interference therewith by or on behalf of such State or any person therein, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is an infringement of any patent, design, or model duly granted or registered in the State whose territory is entered by the aircraft, it being agreed that no deposit of security in connection with the foregoing exemption from seizure or detention of the aircraft shall in any case be required in the State entered by such aircraft.

(b) The provisions of paragraph (a) of this Article shall also be applicable to the storage of spare parts and spare equipment for the aircraft and the right to use and install the same in the repair of an aircraft of a contracting State in the territory of any other contracting State, provided that any patented part or equipment so stored shall not be sold or distributed internally in or exported commercially from the contracting State entered by the aircraft.

(c) The benefits of this Article shall apply only to such States, parties to this Convention, as either (1) are parties to the International Convention for the Protection of Industrial Property and to any amendments thereof; or (2) have enacted patent laws which recognize and give adequate protection to inventions made by the nationals of the other States parties to this Convention.

ARTICLE 28.—Each contracting State undertakes, so far as it may find practicable, to:

(a) Provide, in its territory, airports, radio services, meteorological services and other air navigation facilities to facilitate international air navigation, in accordance with the standards and practices recommended or established from time to time, pursuant to this Convention;

(b) Adopt and put into operation the appropriate standard systems of communications procedure,

codes, markings, signals, lighting, and other operational practices and rules which may be recommended or established from time to time, pursuant to this Convention;

(*c*) Collaborate in international measures to secure the publication of aeronautical maps and charts in accordance with standards which may be recommended or established from time to time, pursuant to this Convention.

CHAPTER V. CONDITIONS TO BE FULFILLED WITH RESPECT TO AIRCRAFT

ARTICLE 29.—Every aircraft of a contracting State, engaged in international navigation, shall carry the following documents in conformity with the conditions prescribed in this Convention:

- (*a*) Its certificate of registration;
- (*b*) Its certificate of airworthiness;
- (*c*) The appropriate licenses for each member of the crew;
- (*d*) Its journey logbook;
- (*e*) If it is equipped with radio apparatus, the aircraft radio station license;
- (*f*) If it carries passengers, a list of their names and places of embarkation and destination;
- (*g*) If it carries cargo, a manifest and detailed declarations of the cargo.

ARTICLE 30.—(*a*) Aircraft of each contracting State may, in or over the territory of other contracting States, carry radio transmitting apparatus only if a license to install and operate such apparatus has been issued by the appropriate authorities of the State in which the aircraft is registered. The use of radio transmitting apparatus in the territory of the contracting State whose territory is flown over shall be in accordance with the regulations prescribed by that State.

(b) Radio transmitting apparatus may be used only by members of the flight crew who are provided with a special license for the purpose, issued by the appropriate authorities of the State in which the aircraft is registered.

ARTICLE 31.—Every aircraft engaged in international navigation shall be provided with a certificate of airworthiness issued or rendered valid by the State in which it is registered.

ARTICLE 32.—(a) The pilot of every aircraft and the other members of the operating crew of every aircraft engaged in international navigation shall be provided with certificates of competency and licenses issued or rendered valid by the State in which the aircraft is registered.

(b) Each contracting State reserves the right to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licenses granted to any of its nationals by another contracting State.

ARTICLE 33.—Certificates of airworthiness and certificates of competency and licenses issued or rendered valid by the contracting State in which the aircraft is registered, shall be recognized as valid by the other contracting States, provided that the requirements under which such certificates or licenses were issued or rendered valid are equal to or above the minimum standards which may be established from time to time pursuant to this Convention.

ARTICLE 34.—There shall be maintained in respect of every aircraft engaged in international navigation a journey log book in which shall be entered particulars of the aircraft, its crew and of each journey, in such form as may be prescribed from time to time pursuant to this Convention.

ARTICLE 35.—(a) No munitions of war or implements of war may be carried in or above the territory

of a State in aircraft engaged in international navigation, except by permission of such State. Each State shall determine by regulations what constitutes munitions of war or implements of war for the purposes of this Article, giving due consideration, for the purposes of uniformity, to such recommendations as the International Civil Aviation Organization may from time to time make.

(b) Each contracting State reserves the right, for reasons of public order and safety, to regulate or prohibit the carriage in or above its territory of articles other than those enumerated in paragraph (a): provided that no distinction is made in this respect between its national aircraft engaged in international navigation and the aircraft of the other States so engaged; and provided further that no restriction shall be imposed which may interfere with the carriage and use on aircraft of apparatus necessary for the operation or navigation of the aircraft or the safety of the personnel or passengers.

ARTICLE 36.—Each contracting State may prohibit or regulate the use of photographic apparatus in aircraft over its territory.

CHAPTER VI. INTERNATIONAL STANDARDS AND RECOMMENDED PRACTICES

ARTICLE 37.—Each contracting State undertakes to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures, and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.

To this end the International Civil Aviation Organization shall adopt and amend from time to time, as may be necessary, international standards

and recommended practices and procedures dealing with:

- (a) Communications systems and air navigation aids, including ground marking;
- (b) Characteristics of airports and landing areas;
- (c) Rules of the air and air traffic control practices;
- (d) Licensing of operating and mechanical personnel;
- (e) Airworthiness of aircraft;
- (f) Registration and identification of aircraft;
- (g) Collection and exchange of meteorological information;
- (h) Log books;
- (i) Aeronautical maps and charts;
- (j) Customs and immigration procedures;
- (k) Aircraft in distress and investigation of accidents;

and such other matters concerned with the safety, regularity, and efficiency of air navigation as may from time to time appear appropriate.

ARTICLE 38.—Any State which finds it impracticable to comply in all respects with any such international standard or procedure, or to bring its own regulations or practices into full accord with any international standard or procedure after amendment of the latter, or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, shall give immediate notification to the International Civil Aviation Organization of the differences between its own practice and that established by the international standard. In the case of amendments to international standards, any State which does not make the appropriate amendments to its own regulations or practices shall give notice to the Council within sixty days of the

adoption of the amendment to the international standard, or indicate the action which it proposes to take. In any such case, the Council shall make immediate notification to all other States of the difference which exists between one or more features of an international standard and the corresponding national practice of that State.

ARTICLE 39.—(a) Any aircraft or part thereof with respect to which there exists an international standard of airworthiness or performance, and which failed in any respect to satisfy that standard at the time of its certification, shall have endorsed on or attached to its airworthiness certificate a complete enumeration of the details in respect of which it so failed.

(b) Any person holding a license who does not satisfy in full the conditions laid down in the international standard relating to the class of license or certificate which he holds shall have endorsed on or attached to his license a complete enumeration of the particulars in which he does not satisfy such conditions.

ARTICLE 40.—No aircraft or personnel having certificates or licenses so endorsed shall participate in international navigation, except with the permission of the State or States whose territory is entered. The registration or use of any such aircraft, or of any certificated aircraft part, in any State other than that in which it was originally certificated shall be at the discretion of the State into which the aircraft or part is imported.

ARTICLE 41.—The provisions of this Chapter shall not apply to aircraft and aircraft equipment of types of which the prototype is submitted to the appropriate national authorities for certification prior to a date three years after the date of adoption of an

international standard of airworthiness for such equipment.

ARTICLE 42.—The provisions of this Chapter shall not apply to personnel whose licenses are originally issued prior to a date one year after initial adoption of an international standard of qualification for such personnel; but they shall in any case apply to all personnel whose licenses remain valid five years after the date of adoption of such standard.

PART II. THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

CHAPTER VII. THE ORGANIZATION

ARTICLE 43.—An organization to be named the International Civil Aviation Organization is formed by the Convention. It is made up of an Assembly, a Council, and such other bodies as may be necessary.

ARTICLE 44.—The aims and objectives of the Organization are to develop the principles and techniques of international air navigation and to foster the planning and development of international air transport so as to:

(a) Insure the safe and orderly growth of international civil aviation throughout the world;

(b) Encourage the arts of aircraft design and operation for peaceful purposes;

(c) Encourage the development of airways, airports, and air navigation facilities for international civil aviation;

(d) Meet the needs of the peoples of the world for safe, regular, efficient and economical air transport;

(e) Prevent economic waste caused by unreasonable competition;

(f) Insure that the rights of contracting States are fully respected and that every contracting State

has a fair opportunity to operate international airlines;

(g) Avoid discrimination between contracting States:

(h) Promote safety of flight in international air navigation;

(i) Promote generally the development of all aspects of international civil aeronautics.

ARTICLE 45.—The permanent seat of the Organization shall be at such place as shall be determined at the final meeting of the Interim Assembly of the Provisional International Civil Aviation Organization set up by the Interim Agreement on International Civil Aviation signed at Chicago on December 7, 1944. The seat may be temporarily transferred elsewhere by decision of the Council.

ARTICLE 46.—The first meeting of the Assembly shall be summoned by the Interim Council of the above-mentioned Provisional Organization as soon as the Convention has come into force, to meet at a time and place to be decided by the Interim Council.

ARTICLE 47.—The Organization shall enjoy in the territory of each contracting State such legal capacity as may be necessary for the performance of its functions. Full juridical personality shall be granted wherever compatible with the constitution and laws of the State concerned.

CHAPTER VIII. THE ASSEMBLY

ARTICLE 48.—(a) The Assembly shall meet annually and shall be convened by the Council at a suitable time and place. Extraordinary meetings of the Assembly may be held at any time upon the call of the Council or at the request of any ten contracting States addressed to the Secretary General.

(b) All contracting States shall have an equal right to be represented at the meetings of the Assembly

and each contracting State shall be entitled to one vote. Delegates representing contracting States may be assisted by technical advisers who may participate in the meetings but shall have no vote.

(c) A majority of the contracting States is required to constitute a quorum for the meetings of the Assembly. Unless otherwise provided in this Convention, decisions of the Assembly shall be taken by a majority of the votes cast.

ARTICLE 49.—The powers and duties of the Assembly shall be to:

(a) Elect at each meeting its President and other officers;

(b) Elect the contracting States to be represented on the Council, in accordance with the provisions of Chapter IX;

(c) Examine and take appropriate action on the reports of the Council and decide on any matter referred to it by the Council;

(d) Determine its own rules of procedure and establish such subsidiary commissions as it may consider to be necessary or desirable;

(e) Vote an annual budget and determine the financial arrangements of the Organization, in accordance with the provisions of Chapter XII;

(f) Review expenditures and approve the accounts of the Organization;

(g) Refer, at its discretion, to the Council, to subsidiary commissions, or to any other body any matter within its sphere of action;

(h) Delegate to the Council the powers and authority necessary or desirable for the discharge of the duties of the Organization and revoke or modify the delegations of authority at any time;

(i) Carry out the appropriate provisions of Chapter XIII;

(j) Consider proposals for the modification or

amendment of the provisions of this Convention and, if it approves of the proposals, recommend them to the contracting States in accordance with the provisions of Chapter XXI;

(*k*) Deal with any matter within the sphere of action of the Organization not specifically assigned to the Council.

CHAPTER IX. THE COUNCIL

ARTICLE 50.—(*a*) The Council shall be a permanent body responsible to the Assembly. It shall be composed of twenty-one contracting States elected by the Assembly. An election shall be held at the first meeting of the Assembly and thereafter every three years, and the members of the Council so elected shall hold office until the next following election.

(*b*) In electing the members of the Council, the Assembly shall give adequate representation to (1) the States of chief importance in air transport; (2) the States not otherwise included which make the largest contribution to the provision of facilities for international civil air navigation; and (3) the States not otherwise included whose designation will insure that all the major geographic areas of the world are represented on the Council. Any vacancy on the Council shall be filled by the Assembly as soon as possible; any contracting State so elected to the Council shall hold office for the unexpired portion of its predecessor's term of office.

(*c*) No representative of a contracting State on the Council shall be actively associated with the operation of an international air service or financially interested in such a service.

ARTICLE 51.—The Council shall elect its President for a term of three years. He may be reelected. He shall have no vote. The Council shall elect from

among its members one or more Vice Presidents who shall retain their right to vote when serving as acting President. The President need not be selected from among the representatives of the members of the Council but, if a representative is elected, his seat shall be deemed vacant and it shall be filled by the State which he represented. The duties of the President shall be to:

(a) Convene meetings of the Council, the Air Transport Committee, and the Air Navigation Commission;

(b) Serve as representative of the Council; and

(c) Carry out on behalf of the Council the functions which the Council assigns to him.

ARTICLE 52.—Decisions by the Council shall require approval by a majority of its members. The Council may delegate authority with respect to any particular matter to a committee of its members. Decisions of any committee of the Council may be appealed to the Council by any interested contracting State.

ARTICLE 53.—Any contracting State may participate, without a vote, in the consideration by the Council and by its committees and commissions of any question which especially affects its interests. No member of the Council shall vote in the consideration by the Council of a dispute to which it is a party.

ARTICLE 54.—The Council shall:

(a) Submit annual reports to the Assembly;

(b) Carry out the directions of the Assembly and discharge the duties and obligations which are laid on it by this Convention;

(c) Determine its organization and rules of procedure;

(d) Appoint and define the duties of an Air Transport Committee, which shall be chosen from among

the representatives of the members of the Council, and which shall be responsible to it;

(e) Establish an Air Navigation Commission, in accordance with the provisions of Chapter X;

(f) Administer the finances of the Organization in accordance with the provisions of Chapters XII and XV;

(g) Determine the emoluments of the President of the Council;

(h) Appoint a chief executive officer who shall be called the Secretary General, and make provision for the appointment of such other personnel as may be necessary, in accordance with the provisions of Chapter XI;

(i) Request, collect, examine and publish information relating to the advancement of air navigation and the operation of international air services, including information about the costs of operation and particulars of subsidies paid to airlines from public funds;

(j) Report to contracting States any infraction of this Convention, as well as any failure to carry out recommendations or determinations of the Council;

(k) Report to the Assembly any infraction of this Convention where a contracting State has failed to take appropriate action within a reasonable time after notice of the infraction;

(l) Adopt, in accordance with the provisions of Chapter VI of this Convention, international standards and recommended practices; for convenience, designate them as Annexes to this Convention; and notify all contracting States of the action taken;

(m) Consider recommendations of the Air Navigation Commission for amendment of the Annexes and take action in accordance with the provisions of Chapter XX;

(*n*) Consider any matter relating to the Convention which any contracting State refers to it.

ARTICLE 55.—The Council may:

(*a*) Where appropriate and as experience may show to be desirable, create subordinate air transport commissions on a regional or other basis and define groups of states or airlines with or through which it may deal to facilitate the carrying out of the aims of this Convention;

(*b*) Delegate to the Air Navigation Commission duties additional to those set forth in the Convention and revoke or modify such delegations of authority at any time;

(*c*) Conduct research into all aspects of air transport and air navigation which are of international importance, communicate the results of its research to the contracting States, and facilitate the exchange of information between contracting States on air transport and air navigation matters;

(*d*) Study any matters affecting the organization and operation of international air transport, including the international ownership and operation of international air services on trunk routes, and submit to the Assembly plans in relation thereto;

(*e*) Investigate, at the request of any contracting State, any situation which may appear to present avoidable obstacles to the development of international air navigation; and, after such investigation, issue such reports as may appear to it desirable.

CHAPTER X. THE AIR NAVIGATION COMMISSION

ARTICLE 56.—The Air Navigation Commission shall be composed of twelve members appointed by the Council from among persons nominated by contracting States. These persons shall have suitable qualifications and experience in the science and practice of aeronautics. The Council shall request all

contracting States to submit nominations. The President of the Air Navigation Commission shall be appointed by the Council.

ARTICLE 57.—The Air Navigation Commission shall:

(a) Consider, and recommend to the Council for adoption, modifications of the Annexes to this Convention;

(b) Establish technical subcommissions on which any contracting State may be represented, if it so desires;

(c) Advise the Council concerning the collection and communication to the contracting States of all information which it considers necessary and useful for the advancement of air navigation.

CHAPTER XI. PERSONNEL

ARTICLE 58.—Subject to any rules laid down by the Assembly and to the provisions of this Convention, the Council shall determine the method of appointment and of termination of appointment, the training, and the salaries, allowances, and conditions of service of the Secretary General and other personnel of the Organization, and may employ or make use of the services of nationals of any contracting State.

ARTICLE 59.—The President of the Council, the Secretary General, and other personnel shall not seek or receive instructions in regard to the discharge of their responsibilities from any authority external to the Organization. Each contracting State undertakes fully to respect the international character of the responsibilities of the personnel and not to seek to influence any of its nationals in the discharge of their responsibilities.

ARTICLE 60.—Each contracting State undertakes, so far as possible under its constitutional procedure, to accord to the President of the Council, the Sec-

retary General, and the other personnel of the Organization, the immunities and privileges which are accorded to corresponding personnel of other public international organizations. If a general international agreement on the immunities and privileges of international civil servants is arrived at, the immunities and privileges accorded to the President, the Secretary General, and the other personnel of the Organization shall be the immunities and privileges accorded under that general international agreement.

CHAPTER XII. FINANCE

ARTICLE 61.—The Council shall submit to the Assembly an annual budget, annual statements of accounts and estimates of all receipts and expenditures. The Assembly shall vote the budget with whatever modification it sees fit to prescribe, and, with the exception of assessments under Chapter XV to States consenting thereto, shall apportion the expenses of the Organization among the contracting States on the basis which it shall from time to time determine.

ARTICLE 62.—The Assembly may suspend the voting power in the Assembly and in the Council of any contracting State that fails to discharge within a reasonable period its financial obligations to the Organization.

ARTICLE 63.—Each contracting State shall bear the expenses of its own delegation to the Assembly and the remuneration, travel, and other expenses of any person whom it appoints to serve on the Council, and of its nominees or representatives on any subsidiary committees or commissions of the Organization.

CHAPTER XIII. OTHER INTERNATIONAL ARRANGEMENTS

ARTICLE 64.—The Organization may, with respect to air matters within its competence directly affecting world security, by vote of the Assembly enter into appropriate arrangements with any general organization set up by the nations of the world to preserve peace.

ARTICLE 65.—The Council, on behalf of the Organization, may enter into agreements with other international bodies for the maintenance of common services and for common arrangements concerning personnel and, with the approval of the Assembly, may enter into such other arrangements as may facilitate the work of the Organization.

ARTICLE 66.—(a) The Organization shall also carry out the functions placed upon it by the International Air Services Transit Agreement and by the International Air Transport Agreement drawn up at Chicago on December 7, 1944, in accordance with the terms and conditions therein set forth.

(b) Members of the Assembly and the Council who have not accepted the International Air Services Transit Agreement or the International Air Transport Agreement drawn up at Chicago on December 7, 1944 shall not have the right to vote on any questions referred to the Assembly or Council under the provisions of the relevant Agreement.

PART III. INTERNATIONAL AIR TRANSPORT

CHAPTER XIV. INFORMATION AND REPORTS

ARTICLE 67.—Each contracting State undertakes that its international airlines shall, in accordance with requirements laid down by the Council, file with the Council traffic reports, cost statistics and financial

statements showing among other things all receipts and the sources thereof.

CHAPTER XV. AIRPORTS AND OTHER AIR NAVIGATION FACILITIES

ARTICLE 68.—Each contracting State may, subject to the provisions of this Convention, designate the route to be followed within its territory by any international air service and the airports which any such service may use.

ARTICLE 69.—If the Council is of the opinion that the airports or other air navigation facilities, including radio and meteorological services, of a contracting State are not reasonably adequate for the safe, regular, efficient, and economical operation of international air services, present or contemplated, the Council shall consult with the State directly concerned, and other States affected, with a view to finding means by which the situation may be remedied, and may make recommendations for that purpose. No contracting State shall be guilty of an infraction of this Convention if it fails to carry out these recommendations.

ARTICLE 70.—A contracting State, in the circumstances arising under the provisions of Article 69, may conclude an arrangement with the Council for giving effect to such recommendations. The State may elect to bear all of the costs involved in any such arrangement. If the State does not so elect, the Council may agree, at the request of the State, to provide for all or a portion of the costs.

ARTICLE 71.—If a contracting State so requests, the Council may agree to provide, man, maintain, and administer any or all of the airports and other air navigation facilities, including radio and meteorological services, required in its territory for the safe, regular, efficient and economical operation of the

international air services of the other contracting States, and may specify just and reasonable charges for the use of the facilities provided.

ARTICLE 72.—Where land is needed for facilities financed in whole or in part by the Council at the request of a contracting State, that State shall either provide the land itself, retaining title if it wishes, or facilitate the use of the land by the Council on just and reasonable terms and in accordance with the laws of the State concerned.

ARTICLE 73.—Within the limit of the funds which may be made available to it by the Assembly under Chapter XII, the Council may make current expenditures for the purposes of this Chapter from the general funds of the Organization. The Council shall assess the capital funds required for the purposes of this Chapter in previously agreed proportions over a reasonable period of time to the contracting States consenting thereto whose airlines use the facilities. The Council may also assess to States that consent any working funds that are required.

ARTICLE 74.—When the Council, at the request of a contracting State, advances funds or provides airports or other facilities in whole or in part, the arrangement may provide, with the consent of that State, for technical assistance in the supervision and operation of the airports and other facilities, and for the payment, from the revenues derived from the operation of the airports and other facilities, of the operating expenses of the airports and the other facilities, and of interest and amortization charges.

ARTICLE 75.—A contracting State may at any time discharge any obligation into which it has entered under Article 70, and take over airports and other facilities which the Council has provided in its territory pursuant to the provisions of Articles 71 and 72, by paying to the Council an amount which

in the opinion of the Council is reasonable in the circumstances. If the State considers that the amount fixed by the Council is unreasonable it may appeal to the Assembly against the decision of the Council and the Assembly may confirm or amend the decision of the Council.

ARTICLE 76.—Funds obtained by the Council through reimbursement under Article 75 and from receipts of interest and amortization payments under Article 74 shall, in the case of advances originally financed by States under Article 73, be returned to the States which were originally assessed in the proportion of their assessments, as determined by the Council.

CHAPTER XVI. JOINT OPERATING ORGANIZATIONS AND POOLED SERVICES

ARTICLE 77.—Nothing in this Convention shall prevent two or more contracting States from constituting joint air transport operating organizations or international operating agencies and from pooling their air services on any routes or in any regions, but such organizations or agencies and such pooled services shall be subject to all the provisions of this Convention, including those relating to the registration of agreements with the Council. The Council shall determine in what manner the provisions of this Convention relating to nationality of aircraft shall apply to aircraft operated by international operating agencies.

ARTICLE 78.—The Council may suggest to contracting States concerned that they form joint organizations to operate air services on any routes or in any regions.

ARTICLE 79.—A State may participate in joint operating organizations or in pooling arrangements, either through its government or through an airline

company or companies designated by its government. The companies may, at the sole discretion of the State concerned, be state-owned or partly state-owned or privately owned.

PART IV. FINAL PROVISIONS

CHAPTER XVII. OTHER AERONAUTICAL AGREEMENTS AND ARRANGEMENTS

ARTICLE 80.—Each contracting State undertakes, immediately upon the coming into force of this Convention, to give notice of denunciation of the Convention relating to the Regulation of Aerial Navigation signed at Paris on October 13, 1919 or the Convention on Commercial Aviation signed at Habana on February 20, 1928, if it is a party to either. As between contracting States, this Convention supersedes the Conventions of Paris and Habana previously referred to.

ARTICLE 81.—All aeronautical agreements which are in existence on the coming into force of this Convention, and which are between a contracting State and any other State or between an airline of a contracting State and any other State or the airline of any other State, shall be forthwith registered with the Council.

ARTICLE 82.—The contracting States accept this Convention as abrogating all obligations and understandings between them which are inconsistent with its terms, and undertake not to enter into any such obligations and understandings. A contracting State which, before becoming a member of the Organization has undertaken any obligations toward a non-contracting State or a national of a contracting State or of a non-contracting State inconsistent with the terms of this Convention, shall take immediate steps to procure its release from the obligations. If

an airline of any contracting State has entered into any such inconsistent obligations, the State of which it is a national shall use its best efforts to secure their termination forthwith and shall in any event cause them to be terminated as soon as such action can lawfully be taken after the coming into force of this Convention.

ARTICLE 83.—Subject to the provisions of the preceding Article, any contracting State may make arrangements not inconsistent with the provisions of this Convention. Any such arrangement shall be forthwith registered with the Council, which shall make it public as soon as possible.

CHAPTER XVIII. DISPUTES AND DEFAULT

ARTICLE 84. If any disagreement between two or more contracting States relating to the interpretation or application of this Convention and its Annexes cannot be settled by negotiation, it shall, on the application of any State concerned in the disagreement, be decided by the Council. No member of the Council shall vote in the consideration by the Council of any dispute to which it is a party. Any contracting State may, subject to Article 85, appeal from the decision of the Council to an *ad hoc* arbitral tribunal agreed upon with the other parties to the dispute or to the Permanent Court of International Justice. Any such appeal shall be notified to the Council within sixty days of receipt of notification of the decision of the Council.

ARTICLE 85.—If any contracting State party to a dispute in which the decision of the Council is under appeal has not accepted the Statute of the Permanent Court of International Justice and the contracting States parties to the dispute cannot agree on the choice of the arbitral tribunal, each of the contracting

States parties to the dispute shall name a single arbitrator who shall name an umpire. If either contracting State party to the dispute fails to name an arbitrator within a period of three months from the date of the appeal, an arbitrator shall be named on behalf of that State by the President of the Council from a list of qualified and available persons maintained by the Council. If, within thirty days, the arbitrators cannot agree on an umpire, the President of the Council shall designate an umpire from the list previously referred to. The arbitrators and the umpire shall then jointly constitute an arbitral tribunal. Any arbitral tribunal established under this or the preceding Article shall settle its own procedure and give its decisions by majority vote, provided that the Council may determine procedural questions in the event of any delay which in the opinion of the Council is excessive.

ARTICLE 86.—Unless the Council decides otherwise, any decision by the Council on whether an international airline is operating in conformity with the provisions of this Convention shall remain in effect unless reversed on appeal. On any other matter, decisions of the Council shall, if appealed from, be suspended until the appeal is decided. The decisions of the Permanent Court of International Justice and of an arbitral tribunal shall be final and binding.

ARTICLE 87.—Each contracting State undertakes not to allow the operation of an airline of a contracting State through the airspace above its territory if the Council has decided that the airline concerned is not conforming to a final decision rendered in accordance with the previous Article.

ARTICLE 88.—The Assembly shall suspend the voting power in the Assembly and in the Council of

any contracting State that is found in default under the provisions of this Chapter.

CHAPTER XIX. WAR

ARTICLE 89.—In case of war, the provisions of this Convention shall not affect the freedom of action of any of the contracting States affected, whether as belligerents or as neutrals. The same principle shall apply in the case of any contracting State which declares a state of national emergency and notifies the fact to the Council.

CHAPTER XX. ANNEXES

ARTICLE 90.—(a) The adoption by the Council of the Annexes described in Article 54, subparagraph (1), shall require the vote of two-thirds of the Council at a meeting called for that purpose and shall then be submitted by the Council to each contracting State. Any such Annex or any amendment of an Annex shall become effective within three months after its submission to the contracting States or at the end of such longer period of time as the Council may prescribe, unless in the meantime a majority of the contracting States register their disapproval with the Council.

(b) The Council shall immediately notify all contracting States of the coming into force of any Annex or amendment thereto.

CHAPTER XXI. RATIFICATIONS, ADHERENCES, AMENDMENTS, AND DENUNCIATIONS

ARTICLE 91.—(a) This Convention shall be subject to ratification by the signatory States. The instruments of ratification shall be deposited in the archives of the Government of the United States of America,

which shall give notice of the date of the deposit to each of the signatory and adhering States.

(b) As soon as this Convention has been ratified or adhered to by twenty-six States it shall come into force between them on the thirtieth day after deposit of the twenty-sixth instrument. It shall come into force for each State ratifying thereafter on the thirtieth day after the deposit of its instrument of ratification.

(c) It shall be the duty of the Government of the United States of America to notify the government of each of the signatory and adhering States of the date on which this Convention comes into force.

ARTICLE 92.—(a) This Convention shall be open for adherence by members of the United Nations and States associated with them, and States which remained neutral during the present world conflict.

(b) Adherence shall be effected by a notification addressed to the Government of the United States of America and shall take effect as from the thirtieth day from the receipt of the notification by the Government of the United States of America, which shall notify all the contracting States.

ARTICLE 93.—States other than those provided for in Articles 91 and 92 (a) may, subject to approval by any general international organization set up by the nations of the world to preserve peace, be admitted to participation in this Convention by means of a four-fifths vote of the Assembly and on such conditions as the Assembly may prescribe; provided that in each case the assent of any State invaded or attacked during the present war by the State seeking admission shall be necessary.

ARTICLE 94.—(a) Any proposed amendment to this Convention must be approved by a two-thirds vote of the Assembly and shall then come into force in respect of States which have ratified such amend-

ment when ratified by the number of contracting States specified by the Assembly. The number so specified shall not be less than two-thirds of the total number of contracting States.

(*b*) If in its opinion the amendment is of such a nature as to justify this course, the Assembly in its resolution recommending adoption may provide that any State which has not ratified within a specified period after the amendment has come into force shall thereupon cease to be a member of the Organization and a party to the Convention.

ARTICLE 95.—(*a*) Any contracting State may give notice of denunciation of this Convention three years after its coming into effect by notification addressed to the Government of the United States of America, which shall at once inform each of the contracting States.

(*b*) Denunciation shall take effect one year from the date of the receipt of the notification and shall operate only as regards the State effecting the denunciation.

CHAPTER XXII. DEFINITIONS

ARTICLE 96.—For the purpose of this Convention the expression:

(*a*) “Air service” means any scheduled air service performed by aircraft for the public transport of passengers, mail or cargo.

(*b*) “International air service” means an air service which passes through the air space over the territory of more than one State.

(*c*) “Airline” means any air transport enterprise offering or operating an international air service.

(*d*) “Stop for non-traffic purposes” means a landing for any purpose other than taking on or discharging passengers, cargo or mail.

SIGNATURE OF CONVENTION

In witness whereof, the undersigned plenipotentiaries, having been duly authorized, sign this Convention on behalf of their respective governments on the dates appearing opposite their signatures.

Done at Chicago the seventh day of December 1944, in the English language. A text drawn up in the English, French, and Spanish languages, each of which shall be of equal authenticity, shall be open for signature at Washington, D. C. Both texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the governments of all the States which may sign or adhere to this Convention.

[Signatures omitted.]

(28) International Air Services Transit Agreement, Chicago, 7 December 1944

(Executive Agreement Series 487.)

The States which sign and accept this International Air Services Transit Agreement, being members of the International Civil Aviation Organization, declare as follows:

ARTICLE I. *Section 1.*—Each contracting State grants to the other contracting States the following freedoms of the air in respect of scheduled international air services:

(1) The privilege to fly across its territory without landing;

(2) The privilege to land for non-traffic purposes.

The privileges of this section shall not be applicable with respect to airports utilized for military purposes to the exclusion of any scheduled international air services. In areas of active hostilities or of military occupation, and in time of war along the supply routes leading to such areas, the exercise of such

privileges shall be subject to the approval of the competent military authorities.

Section 2.—The exercise of the foregoing privileges shall be in accordance with the provisions of the Interim Agreement on International Civil Aviation and, when it comes into force, with the provisions of the Convention on International Civil Aviation, both drawn up at Chicago on December 7, 1944.

Section 3.—A contracting State granting to the airlines of another contracting State the privilege to stop for non-traffic purposes may require such airlines to offer reasonable commercial service at the points at which such stops are made.

Such requirement shall not involve any discrimination between airlines operating on the same route, shall take into account the capacity of the aircraft, and shall be exercised in such a manner as not to prejudice the normal operations of the international air services concerned or the rights and obligations of a contracting State.

Section 4.—Each contracting State may, subject to the provisions of this Agreement,

(1) Designate the route to be followed within its territory by any international air service and the airports which any such service may use;

(2) Impose or permit to be imposed on any such service just and reasonable charges for the use of such airports and other facilities; these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services: provided that, upon representation by an interested contracting State, the charges imposed for the use of airports and other facilities shall be subject to review by the Council of the International Civil Aviation Organization established under the above-mentioned Convention, which

shall report and make recommendations thereon for the consideration of the State or States concerned.

Section 5.—Each contracting State reserves the right to withhold or revoke a certificate or permit to an air transport enterprise of another State in any case where it is not satisfied that substantial ownership and effective control are vested in nationals of a contracting State, or in case of failure of such air transport enterprise to comply with the laws of the State over which it operates, or to perform its obligations under this Agreement.

ARTICLE II. *Section 1.*—A contracting State which deems that action by another contracting State under this Agreement is causing injustice or hardship to it, may request the Council to examine the situation. The Council shall thereupon inquire into the matter, and shall call the States concerned into consultation. Should such consultation fail to resolve the difficulty, the Council may make appropriate findings and recommendations to the contracting States concerned. If thereafter a contracting State concerned shall in the opinion of the Council unreasonably fail to take suitable corrective action, the Council may recommend to the Assembly of the above-mentioned Organization that such contracting State be suspended from its rights and privileges under this Agreement until such action has been taken. The Assembly by a two-thirds vote may so suspend such contracting State for such period of time as it may deem proper or until the Council shall find that corrective action has been taken by such State.

Section 2.—If any disagreement between two or more contracting States relating to the interpretation or application of this Agreement cannot be settled by negotiation, the provisions of Chapter XVIII of the above-mentioned Convention shall be applicable in the same manner as provided therein with reference

to any disagreement relating to the interpretation or application of the above-mentioned Convention.

ARTICLE III.—This Agreement shall remain in force as long as the above-mentioned Convention; provided, however, that any contracting State, a party to the present Agreement, may denounce it on one year's notice given by it to the Government of the United States of America, which shall at once inform all other contracting States of such notice and withdrawal.

ARTICLE IV.—Pending the coming into force of the above-mentioned Convention, all references to it herein, other than those contained in Article II, Section 2, and Article V, shall be deemed to be references to the Interim Agreement on International Civil Aviation drawn up at Chicago on December 7, 1944; and references to the International Civil Aviation Organization, the Assembly, and the Council shall be deemed to be references to the Provisional International Civil Aviation Organization, the Interim Assembly, and Interim Council, respectively.

ARTICLE V.—For the purposes of this Agreement, "territory" shall be defined as in Article 2 of the above-mentioned Convention.

ARTICLE VI. *Signatures and Acceptances of Agreement.*—The undersigned delegates to the International Civil Aviation Conference, convened in Chicago on November 1, 1944, have affixed their signatures to this Agreement with the understanding that the Government of the United States of America shall be informed at the earliest possible date by each of the governments on whose behalf the Agreement has been signed whether signatures on its behalf shall constitute an acceptance of the Agreement by that government and an obligation binding upon it.

Any State a member of the International Civil Aviation Organization may accept the present Agree-

ment as an obligation binding upon it by notification of its acceptance to the Government of the United States, and such acceptance shall become effective upon the date of the receipt of such notification by that Government.

This Agreement shall come into force as between contracting States upon its acceptance by each of them. Thereafter it shall become binding as to each other State indicating its acceptance to the Government of the United States on the date of the receipt of the acceptance by that Government. The Government of the United States shall inform all signatory and accepting States of the date of all acceptances of the Agreement, and of the date on which it comes into force for each accepting State.

In witness whereof, the undersigned, having been duly authorized, sign this Agreement on behalf of their respective governments on the dates appearing opposite their respective signatures.

Done at Chicago the seventh day of December, 1944, in the English language. A text drawn up in the English, French, and Spanish languages, each of which shall be of equal authenticity, shall be opened for signature at Washington, D. C. Both texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the governments of all the States which may sign and accept this Agreement.

[Signatures omitted.]

**(29) International Air Transport Agreement, Chicago,
7 December 1944'**

(Executive Agreement Series 488)

The States which sign and accept this International Air Transport Agreement, being members of the

International Civil Aviation Organization, declare as follows:

ARTICLE I. *Section 1.*—Each contracting State grants to the other contracting States the following freedoms of the air in respect of scheduled international air services:

(1) The privilege to fly across its territory without landing;

(2) The privilege to land for non-traffic purposes;

(3) The privilege to put down passengers, mail and cargo taken on in the territory of the State whose nationality the aircraft possesses;

(4) The privilege to take on passengers, mail and cargo destined for the territory of the State whose nationality the aircraft possesses;

(5) The privilege to take on passengers, mail and cargo destined for the territory of any other contracting State and the privilege to put down passengers, mail and cargo coming from any such territory.

With respect to the privileges specified under paragraphs (3), (4), and (5) of this section, the undertaking of each contracting State relates only to through services on a route constituting a reasonably direct line out from and back to the homeland of the State whose nationality the aircraft possesses.

The privileges of this section shall not be applicable with respect to airports utilized for military purposes to the exclusion of any scheduled international air services. In areas of active hostilities or of military occupation, and in time of war along the supply routes leading to such areas, the exercise of such privileges shall be subject to the approval of the competent military authorities.

Section 2.—The exercise of the foregoing privileges shall be in accordance with the provisions of the Interim Agreement on International Civil Aviation

and, when it comes into force, with the provisions of the Convention on International Civil Aviation, both drawn up at Chicago on December 7, 1944.

Section 3.—A contracting State granting to the airlines of another contracting State the privilege to stop for non-traffic purposes may require such airlines to offer reasonable commercial service at the points at which such stops are made.

Such requirement shall not involve any discrimination between airlines operating on the same route, shall take into account the capacity of the aircraft, and shall be exercised in such a manner as not to prejudice the normal operations of the international air services concerned or the rights and obligations of any contracting State.

Section 4.—Each contracting State shall have the right to refuse permission to the aircraft of other contracting States to take on in its territory passengers, mail and cargo carried for remuneration or hire and destined for another point within its territory. Each contracting State undertakes not to enter into any arrangements which specifically grant any such privilege on an exclusive basis to any other State or an airline of any other State, and not to obtain any such exclusive privilege from any other State.

Section 5.—Each contracting State may, subject to the provisions of this Agreement,

(1) Designate the route to be followed within its territory by any international air service and the airports which any such service may use;

(2) Impose or permit to be imposed on any such service just and reasonable charges for the use of such airports and other facilities; these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services: provided that,

upon representation by an interested contracting State, the charges imposed for the use of airports and other facilities shall be subject to review by the Council of the International Civil Aviation Organization established under the above-mentioned Convention, which shall report and make recommendations thereon for the consideration of the State or States concerned.

Section 6.—Each contracting State reserves the right to withhold or revoke a certificate or permit to an air transport enterprise of another State in any case where it is not satisfied that substantial ownership and effective control are vested in nationals of a contracting State, or in case of failure of such air transport enterprise to comply with the laws of the State over which it operates, or to perform its obligations under this Agreement.

ARTICLE II. *Section 1.*—The contracting States accept this Agreement as abrogating all obligations and understandings between them which are inconsistent with its terms, and undertake not to enter into any such obligations and understandings. A contracting State which has undertaken any other obligations inconsistent with this Agreement shall take immediate steps to procure its release from the obligations. If an airline of any contracting State has entered into any such inconsistent obligations, the State of which it is a national shall use its best efforts to secure their termination forthwith and shall in any event cause them to be terminated as soon as such action can lawfully be taken after the coming into force of this Agreement.

Section 2.—Subject to the provisions of the preceding section, any contracting State may make arrangements concerning international air services not inconsistent with this Agreement. Any such arrangement shall be forthwith registered with the

Council, which shall make it public as soon as possible.

ARTICLE III.—Each contracting State undertakes that in the establishment and operation of through services due consideration shall be given to the interests of the other contracting States so as not to interfere unduly with their regional services or to hamper the development of their through services.

ARTICLE IV. *Section 1.*—Any contracting State may by reservation attached to this Agreement at the time of signature or acceptance elect not to grant and receive the rights and obligations of Article I, Section 1, paragraph (5), and may at any time after acceptance, on six months' notice given by it to the Council, withdraw itself from such rights and obligations. Such contracting State may on six months' notice to the Council assume or resume, as the case may be, such rights and obligations. No contracting State shall be obliged to grant any rights under the said paragraph to any contracting State not bound thereby.

Section 2.—A contracting State which deems that action by another contracting State under this Agreement is causing injustice or hardship to it, may request the Council to examine the situation. The Council shall thereupon inquire into the matter, and shall call the States concerned into consultation. Should such consultation fail to resolve the difficulty, the Council may make appropriate findings and recommendations to the contracting States concerned. If thereafter a contracting State concerned shall in the opinion of the Council unreasonably fail to take suitable corrective action, the Council may recommend to the Assembly of the above-mentioned Organization that such contracting State be suspended from its rights and privileges under this Agreement until such action has been taken. The

Assembly by a two-thirds vote may so suspend such contracting State for such period of time as it may deem proper or until the Council shall find that corrective action has been taken by such State.

Section 3.—If any disagreement between two or more contracting States relating to the interpretation or application of this Agreement cannot be settled by negotiation, the provisions of Chapter XVIII of the above-mentioned Convention shall be applicable in the same manner as provided therein with reference to any disagreement relating to the interpretation or application of the above-mentioned Convention.

ARTICLE V.—This Agreement shall remain in force as long as the above-mentioned Convention; provided, however, that any contracting State, a party to the present Agreement, may denounce it on one year's notice given by it to the Government of the United States of America, which shall at once inform all other contracting States of such notice and withdrawal.

ARTICLE VI.—Pending the coming into force of the above-mentioned Convention, all references to it herein other than those contained in Article IV, Section 3, and Article VII shall be deemed to be references to the Interim Agreement on International Civil Aviation drawn up at Chicago on December 7, 1944; and references to the International Civil Aviation Organization, the Assembly, and the Council shall be deemed to be references to the Provisional International Civil Aviation Organization, the Interim Assembly, and the Interim Council, respectively.

ARTICLE VII.—For the purposes of this Agreement, "territory" shall be defined as in Article 2 of the above-mentioned Convention.

ARTICLE VIII. *Signatures and Acceptances of Agreement.*—The undersigned delegates to the Interna-

tional Civil Aviation Conference, convened in Chicago on November 1, 1944, have affixed their signatures to this Agreement with the understanding that the Government of the United States of America shall be informed at the earliest possible date by each of the governments on whose behalf the Agreement has been signed whether signature on its behalf shall constitute an acceptance of the Agreement by that government and an obligation binding upon it.

Any State a member of the International Civil Aviation Organization may accept the present Agreement as an obligation binding upon it by notification of its acceptance to the Government of the United States, and such acceptance shall become effective upon the date of the receipt of such notification by that Government.

This Agreement shall come into force as between contracting States upon its acceptance by each of them. Thereafter it shall become binding as to each other State indicating its acceptance to the Government of the United States on the date of the receipt of the acceptance by that Government. The Government of the United States shall inform all signatory and accepting States of the date of all acceptances of the Agreement, and of the date on which it comes into force for each accepting State.

In witness whereof, the undersigned, having been duly authorized, sign this Agreement on behalf of their respective governments on the dates appearing opposite their signatures.

Done at Chicago the seventh day of December 1944, in the English language. A text drawn up in the English, French, and Spanish languages, each of which shall be of equal authenticity, shall be opened for signature at Washington, D. C. Both texts shall be deposited in the archives of the Government of the United States of America, and certified

copies shall be transmitted by that Government to the governments of all the States which may sign and accept this Agreement.

[Signatures omitted.]

(30) Air Services Agreement Between the United States and the United Kingdom, Bermuda, 11 February 1946

(Treaties and Other International Acts Series 1507)

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Desiring to conclude an Agreement for the purpose of promoting direct air communications as soon as possible between their respective territories,

Have accordingly appointed authorised representatives for this purpose, who have agreed as follows:—

ARTICLE 1.—Each Contracting Party grants to the other Contracting Party rights to the extent described in the Annex to this Agreement for the purpose of the establishment of air services described therein or as amended in accordance with Section IV of the Annex (hereinafter referred to as “the agreed services”).

ARTICLE 2.—(1) The agreed services may be inaugurated immediately or at a later date at the option of the Contracting Party to whom the rights are granted, but not before (a) the Contracting Party to whom the rights have been granted has designated an air carrier or carriers for the specified route or routes, and (b) the Contracting Party granting the rights has given the appropriate operating permission to the air carrier or carriers concerned (which, subject to the provisions of paragraph (2) of this Article and of Article 6, it shall do without undue delay).

(2) The designated air carrier or carriers may be

required to satisfy the aeronautical authorities of the Contracting Party granting the rights that it or they is or are qualified to fulfil the conditions prescribed by or under the laws and regulations normally applied by those authorities to the operations of commercial air carriers.

(3) In areas of military occupation, or in areas affected thereby, such inauguration will continue to be subject, where necessary, to the approval of the competent military authorities.

ARTICLE 3.—(1) The charges which either of the Contracting Parties may impose, or permit to be imposed, on the designated air carrier or carriers of the other Contracting Party for the use of airports and other facilities shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international air services.

(2) Fuel, lubricating oils and spare parts introduced into, or taken on board aircraft in, the territory of one Contracting Party by, or on behalf of, a designated air carrier of the other Contracting Party and intended solely for use by the aircraft of such carrier shall be accorded, with respect to customs duties, inspection fees or other charges imposed by the former Contracting Party, treatment not less favourable than that granted to national air carriers engaged in international air services or such carriers of the most favoured nation.

(3) Supplies of fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board aircraft of a designated air carrier of one Contracting Party shall be exempt in the territory of the other Contracting Party from customs duties, inspection fees or similar duties or charges, even though such supplies be used by such aircraft on flights within that territory.

ARTICLE 4.—Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one Contracting Party and still in force shall be recognised as valid by the other Contracting Party for the purpose of operation of the agreed services. Each Contracting Party reserves the right, however, to refuse to recognise for the purpose of flight above its own territory, certificates of competency and licenses granted to its own nationals by another state.

ARTICLE 5.—(1) The laws and regulations of one Contracting Party relating to entry into or departure from its territory of aircraft engaged in international air navigation or to the operation and navigation of such aircraft while within its territory shall apply to aircraft of the designated air carrier or carriers of the other Contracting Party.

(2) The laws and regulations of one Contracting Party relating to the entry into or departure from its territory of passengers, crew, or cargo of aircraft (such as regulations relating to entry, clearance, immigration, passports, customs and quarantine) shall be applicable to the passengers, crew or cargo of the aircraft of the designated air carrier or carriers of the other Contracting Party while in the territory of the first Contracting Party.

ARTICLE 6.—Each Contracting Party reserves the right to withhold or revoke the exercise of the rights specified in the Annex to this Agreement by a carrier designated by the other Contracting Party in the event that it is not satisfied that substantial ownership and effective control of such carrier are vested in nationals of either Contracting Party, or in case of failure by that carrier to comply with the laws and regulations referred to in Article 5 hereof, or

otherwise to fulfill the conditions under which the rights are granted in accordance with this Agreement and its Annex.

ARTICLE 7.—This Agreement shall be registered with the Provisional International Civil Aviation Organisation set up by the Interim Agreement on International Civil Aviation signed at Chicago on December 7, 1944.

ARTICLE 8.—Except as otherwise provided in this Agreement or its Annex, if either of the Contracting Parties considers it desirable to modify the terms of the Annex to this Agreement, it may request consultation between the aeronautical authorities of both Contracting Parties, such consultation to begin within a period of sixty days from the date of the request. When these authorities agree on modifications to the Annex, these modifications will come into effect when they have been confirmed by an Exchange of Notes through the diplomatic channel.

ARTICLE 9.—Except as otherwise provided in this Agreement or in its Annex, any dispute between the Contracting Parties relating to the interpretation or application of this Agreement or its Annex which cannot be settled through consultation shall be referred for an advisory report to the Interim Council of the Provisional International Civil Aviation Organisation (in accordance with the provisions of Article III Section 6 (8) of the Interim Agreement on International Civil Aviation signed at Chicago on December 7, 1944) or its successor.

ARTICLE 10.—The terms and conditions of operating rights which may have been granted previously by either Contracting Party to the other Contracting Party or to an air carrier of such other Contracting Party shall not be abrogated by the present Agree-

ment. Except as may be modified by the present Agreement, the general principles of the air navigation arrangement between the two Contracting Parties, which was effected by an Exchange of Notes dated March 28 and April 5, 1935, shall continue in force in so far as they are applicable to scheduled international air services, until otherwise agreed by the Contracting Parties.

ARTICLE 11.—If a general multilateral air Convention enters into force in relation to both Contracting Parties, the present Agreement shall be amended so as to conform with the provisions of such Convention.

ARTICLE 12.—For the purposes of this Agreement and its Annex, unless the context otherwise requires:

(a) The term “aeronautical authorities” shall mean, in the case of the United States, the Civil Aeronautics Board and any person or body authorised to perform the functions presently exercised by the Board or similar functions, and, in the case of the United Kingdom, the Minister of Civil Aviation for the time being, and any person or body authorised to perform any functions presently exercised by the said Minister or similar functions.

(b) The term “designated air carriers” shall mean the air transport enterprises which the aeronautical authorities of one of the Contracting Parties have notified in writing to the aeronautical authorities of the other Contracting Party as the air carriers designated by it in accordance with Article 2 of this Agreement for the routes specified in such notification.

(c) The term “territory” shall have the meaning assigned to it by Article 2 of the Convention on Inter-

national Civil Aviation signed at Chicago on December 7, 1944.]

(d) The definitions contained in paragraphs (a), (b) and (d) of Article 96 of the Convention on International Civil Aviation signed at Chicago on December 7, 1944 shall apply.

ARTICLE 13.—Either Contracting Party may at any time request consultation with the other with a view to initiating any amendments of this Agreement or its Annex which may be desirable in the light of experience. Pending the outcome of such consultation, it shall be open to either Party at any time to give notice to the other of its desire to terminate this Agreement. Such notice shall be simultaneously communicated to the Provisional International Civil Aviation Organisation or its successor. If such notice is given, this Agreement shall terminate twelve calendar months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement before the expiry of this period. In the absence of acknowledgment of receipt by the other Contracting Party notice shall be deemed to have been received fourteen days after the receipt of the notice by the Provisional International Civil Aviation Organisation or its successor.

ARTICLE 14.—This Agreement, including the provisions of the Annex hereto, will come into force on the day it is signed.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed the present Agreement.

Done in duplicate this eleventh day of February Nineteen-hundred-and-forty-six at Bermuda.

[Signatures omitted.]

ANNEX

I

For the purposes of operating air services on the routes specified below in Section III of this Annex or as amended in accordance with Section IV hereof, the designated air carriers of one of the Contracting Parties shall be accorded in the territory of the other Contracting Party the use on the said routes at each of the places specified therein of all the airports (being airports designated for international air services), together with ancillary facilities and rights of transit, of stops for non-traffic purposes and of commercial entry and departure for international traffic in passengers, cargo and mail in full accord and compliance with the principles recited and agreed in the Final Act of the Conference on Civil Aviation held between the Governments of the United States and of the United Kingdom at Bermuda from January 15 to February 11, 1946, and subject to the provisions of Sections II and V of this Annex.

II

(a) Rates to be charged by the air carriers of either Contracting Party between points in the territory of the United States and points in the territory of the United Kingdom referred to in this Annex shall be subject to the approval of the Contracting Parties within their respective constitutional powers and obligations. In the event of disagreement the matter in dispute shall be handled as provided below.

(b) The Civil Aeronautics Board of the United States having announced its intention to approve the rate conference machinery of the International Air Transport Association (hereinafter called "IATA"), as submitted, for a period of one year beginning in February, 1946, any rate agreements concluded

through this machinery during this period and involving United States air carriers will be subject to approval by the Board.

(c) Any new rate proposed by the air carrier or carriers of either Contracting Party shall be filed with the aeronautical authorities of both Contracting Parties at least thirty days before the proposed date of introduction; provided that this period of thirty days may be reduced in particular cases if so agreed by the aeronautical authorities of both Contracting Parties.

(d) The Contracting Parties hereby agree that where:

(1) during the period of the Board's approval of the IATA rate conference machinery, either any specific rate agreement is not approved within a reasonable time by either Contracting Party or a conference of IATA is unable to agree on a rate, or

(2) at any time no IATA machinery is applicable, or

(3) either Contracting Party at any time withdraws or fails to renew its approval of that part of the IATA rate conference machinery relevant to this provision,

the procedure described in paragraphs (e), (f) and (g) hereof shall apply.

(e) In the event that power is conferred by law upon the aeronautical authorities of the United States to fix fair and economic rates for the transport of persons and property by air on international services and to suspend proposed rates in a manner comparable to that in which the Civil Aeronautics Board at present is empowered to act with respect to such rates for the transport of persons and property by air within the United States, each of the Contracting

Parties shall thereafter exercise its authority in such manner as to prevent any rate or rates proposed by one of its carriers for services from the territory of one Contracting Party to a point or points in the territory of the other Contracting Party from becoming effective, if, in the judgment of the aeronautical authorities of the Contracting Party whose air carrier or carriers is or are proposing such rate, that rate is unfair or uneconomic. If one of the Contracting Parties on receipt of the notification referred to in paragraph (c) above is dissatisfied with the new rate proposed by the air carrier or carriers of the other Contracting Party, it shall so notify the other Contracting Party prior to the expiry of the first fifteen of the thirty days referred to, and the Contracting Parties shall endeavour to reach agreement on the appropriate rate. In the event that such agreement is reached each Contracting Party will exercise its statutory powers to give effect to such agreement. If agreement has not been reached at the end of the thirty day period referred to in paragraph (c) above, the proposed rate may, unless the aeronautical authorities of the country of the air carrier concerned see fit to suspend its operation, go into effect provisionally pending the settlement of any dispute in accordance with the procedure outlined in paragraph (g) below.

(f) Prior to the time when such power may be conferred by law upon the aeronautical authorities of the United States, if one of the Contracting Parties is dissatisfied with any new rate proposed by the air carrier or carriers of either Contracting Party for services from the territory of one Contracting Party to a point or points in the territory of the other Contracting Party, it shall so notify the other prior to the expiry of the first fifteen of the thirty day period referred to in paragraph (c) above, and the

Contracting Parties shall endeavour to reach agreement on the appropriate rate. In the event that such agreement is reached each Contracting Party will use its best efforts to cause such agreed rate to be put into effect by its air carrier or carriers. It is recognised that if no such agreement can be reached prior to the expiry of such thirty days, the Contracting Party raising the objection to the rate may take such steps as it may consider necessary to prevent the inauguration or continuation of the service in question at the rate complained of.

(g) When in any case under paragraphs (e) and (f) above the aeronautical authorities of the two Contracting Parties cannot agree within a reasonable time upon the appropriate rate after consultation initiated by the complaint of one Contracting Party concerning the proposed rate or an existing rate of the air carrier or carriers of the other Contracting Party, upon the request of either, both Contracting Parties shall submit the question to the Provisional International Civil Aviation Organisation or to its successor for an advisory report, and each Party will use its best efforts under the powers available to it to put into effect the opinion expressed in such report.

(h) The rates to be agreed in accordance with the above paragraphs shall be fixed at reasonable levels, due regard being paid to all relevant factors, such as cost of operation, reasonable profit and the rates charged by any other air carriers.

(j) The Executive Branch of the Government of the United States agrees to use its best efforts to secure legislation empowering the aeronautical authorities of the United States to fix fair and economic rates for the transport of persons and property by air on international services and to suspend proposed rates in a manner comparable to that in which the

Civil Aeronautics Board at present is empowered to act with respect to such rates for the transport of persons and property by air within the United States.

III

(a) ROUTES TO BE SERVED BY AIR CARRIERS
OF THE UNITED KINGDOM

[Enumeration of routes omitted.]

(b) ROUTES TO BE SERVED BY AIR CARRIERS
OF THE UNITED STATES

[Enumeration of routes omitted.]

IV

(a) Amendments made by either Contracting Party to the routes described in Section III of this Annex which change the points served in the territory of the other Contracting Party will be made only after consultation in accordance with the provisions of Article 8 of this Agreement.

(b) Other route changes desired by either Contracting Party may be made and put into effect at any time, prompt notice to that effect being given by the aeronautical authorities of the Contracting Party concerned to the aeronautical authorities of the other Contracting Party. If such other Contracting Party finds that, having regard to the principles set forth in paragraph (6) of the Final Act of the Conference referred to in Section I of this Annex, the interests of its air carrier or carriers are prejudiced by the carriage by the air carrier or carriers of the first Contracting Party of traffic between the territory of the second Contracting Party and the new point in the territory of a third country it shall so inform the first Contracting Party. If agreement

cannot be reached by consultation between the Contracting Parties, it shall be open to the Contracting Party whose air carrier or carriers is or are affected to invoke the provisions of Article 9 of this Agreement.

(c) The Contracting Parties will, as soon as possible after the execution of this Agreement and from time to time thereafter, exchange information concerning the authorisations extended to their respective designated air carriers to render service to, through and from the territory of the other Contracting Party. This will include copies of current certificates and authorisations for service on the routes which are the subject of this Agreement, and for the future such new certificates and authorisations as may be issued, together with amendments, exemption orders and authorised service patterns.

V

(a) Where the onward carriage of traffic by an aircraft of different size from that employed on the earlier stage of the same route (hereinafter referred to as "change of gauge") is justified by reason of economy of operation, such change of gauge at a point in the territory of the United Kingdom or the territory of the United States shall not be made in violation of the principles set forth in the Final Act of the Conference on Civil Aviation held at Bermuda from January 15 to February 11, 1946 and, in particular, shall be subject to there being an adequate volume of through traffic.

(b) Where a change of gauge is made at a point in the territory of the United Kingdom or in the territory of the United States, the smaller aircraft will operate only in connection with the larger aircraft arriving at the point of change, so as to provide

a connecting service which will thus normally wait on the arrival of the larger aircraft, for the primary purpose of carrying onward those passengers who have travelled to United Kingdom or United States territory in the larger aircraft to their ultimate destination in the smaller aircraft. Where there are vacancies in the smaller aircraft such vacancies may be filled with passengers from United Kingdom or United States territory respectively. It is understood however that the capacity of the smaller aircraft shall be determined with primary reference to the traffic travelling in the larger aircraft normally requiring to be carried onward.

(c) It is agreed that the arrangements under any part of the preceding paragraphs (a) and (b) shall be governed by and in no way restrictive of the standards set forth in paragraph (6) of the Final Act.

RESOLUTION ADOPTED AT THE BERMUDA CONFERENCE, 11 FEBRUARY 1946

[The following resolution was adopted as part of the
Final Act of the Conference:]

Whereas representatives of the two Governments have met together in Bermuda to discuss Civil Aviation matters outstanding between them and have reached agreement thereon,

Whereas the two Governments have to-day concluded an Agreement relating to air services between their respective territories (hereinafter called "the Agreement"),

And whereas the two Governments have reached agreement on the procedure to be followed in the settlement of other matters in the field of Civil Aviation,

Now therefore the representatives of the two Governments in Conference resolve and agree as follows:—

(1) That the two Governments desire to foster and encourage the widest possible distribution of the benefits of air travel for the general good of mankind at the cheapest rates consistent with sound economic principles; and to stimulate international air travel as a means of promoting friendly understanding and good will among peoples and ensuring as well the many indirect benefits of this new form of transportation to the common welfare of both countries.

(2) That the two Governments reaffirm their adherence to the principles and purposes set out in the preamble to the Convention on International Civil Aviation signed at Chicago on the 7th December, 1944.

(3) That the air transport facilities available to the travelling public should bear a close relationship to the requirements of the public for such transport.

(4) That there shall be a fair and equal opportunity for the carriers of the two nations to operate on any route between their respective territories (as defined in the Agreement) covered by the Agreement and its Annex.

(5) That, in the operation by the air carriers of either Government of the trunk services described in the Annex to the Agreement, the interest of the air carriers of the other Government shall be taken into consideration so as not to affect unduly the services which the latter provides on all or part of the same routes.

(6) That it is the understanding of both Governments that services provided by a designated air carrier under the Agreement and its Annex shall retain as their primary objective the provision of capacity adequate to the traffic demands between

the country of which such air carrier is a national and the country of ultimate destination of the traffic. The right to embark or disembark on such services international traffic destined for and coming from third countries at a point or points on the routes specified in the Annex to the Agreement shall be applied in accordance with the general principles of orderly development to which both Governments subscribe and shall be subject to the general principle that capacity should be related:

(a) to traffic requirements between the country of origin and the countries of destination;

(b) to the requirements of through airline operation; and

(c) to the traffic requirements of the area through which the airline passes after taking account of local and regional services.

(7) That, in so far as the air carrier or carriers of one Government may be temporarily prevented through difficulties arising from the War from taking immediate advantage of the opportunity referred to in paragraph(4)above, the situation shall be reviewed between the Governments with the object of facilitating the necessary development, as soon as the air carrier or carriers of the first Government is or are in a position increasingly to make their proper contribution to the service.

(8) That duly authorised United States civil air carriers will enjoy non-discriminatory "Two Freedom" privileges and the exercise (in accordance with the Agreement or any continuing or subsequent agreement) of commercial traffic rights at airports located in territory of the United Kingdom which have been constructed in whole or in part with United States funds and are designated for use by international civil air carriers.

(9) That it is the intention of both Governments that there should be regular and frequent consultation between their respective aeronautical authorities (as defined in the Agreement) and that there should thereby be close collaboration in the observance of the principles and the implementation of the provisions outlined herein and in the Agreement and its Annex. . . .



